AMENDED PETITION

IN THE HIGH COURT OF JUDICATURE OF BOMBAY AT PORVORIM, GOA

P.I.L. Writ Petition 5 /2025

The Goa Foundation

… Petitioner

Versus

The Chief Wildlife Warden & Ors.

… Respondents

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Place:

Date:

Advocate for Petitioner

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
AT PORVORIM, GOA

PILWP ___/2025

The Goa Foundation

… Petitioner

Versus

The Chief Wildlife Warden & Ors.

… Respondents

Synopsis of the petition

This Public Interest Litigation (PIL) has been filed against the unauthorized encroachment and appropriation of land falling within the precincts of the Bhagwan Mahaveer Wildlife Sanctuary in Kalay village for the doubling of the Hospet-Hubli-Tinaighat-Vasco railway line. Despite the Supreme Court's 2022 order revoking permissions for railway expansion within the sanctuary, the South Western Railway has proceeded with land acquisition and altered revenue records in violation of the provisions of the Wildlife Protection Act, 1972 (WLPA). The petition highlights two primary illegalities: (i) the unlawful land acquisition under the Railways Act, 1989, despite the statutory bar on the accrual of rights in a notified wildlife

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sanctuary; and (ii) the illegal modification of land revenue records to include railway land within the sanctuary, facilitating further encroachment, even when the railways are unable to provide proof of title. The petition argues that these actions are *ultra vires* the WLPA and undermine the ecological sanctity of the sanctuary, which is home to endangered species and a vital part of the Western Ghats' biodiversity.

Alarmingly, trees have already been marked for felling in the newly surveyed land, posing an imminent threat to the habitat. The petitioner prays for an immediate stay on these illegal activities and for judicial intervention to prevent further degradation of the protected forest. Hence this PIL.

Chronology of dates and events

Sr. No.	**Date**	**Particulars of events**	**Annexure(s) and page number**
1.	28.12.1967	Mollem Wildlife Sanctuary is originally notified as a game park.	*Annexure 2 Colly* at pg. 41
2.	1978	Certain part of the Mollem game park is carved out and designated as a National Park.	
3.	27.09.1982	Remaining part of the Mollem game park is notified as a wildlife sanctuary.	*Annexure 2 Colly* at pg. 43

4.	05.04.1984	Areas formerly a game park and now Wildlife Sanctuary christened as Bhagwan Mahaveer Wildlife Sanctuary	*Annexure 2 Colly* at pg. 47
5.	22.08.1997	The Hon'ble Supreme Court, in *Center for Environmental Law, WWF vs UOI & Ors* observed that the process of settlement of rights within wildlife sanctuaries across the country was still pending and directed all State Governments to expedite the settlement of rights in accordance with the provisions of the Wildlife Protection Act and complete the process within 1 year of the order.	*Annexure 4* at pg. 57
6.	05.12.2017	MoEF&CC issues clarification that railway projects within wildlife sanctuaries must abide by the Wildlife Protection Act, 1972, due to the significant risks rail transport poses to protected species and habitats.	*Annexure 8* at pg. 135
7.	04.03.2020	The Ministry of Railways (South Western Railway (Construction Organization) issues a notification under Section 20 (1) (A) of the Railways Act declaring its	*Annexure 9* at pg. 139

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		intention to acquire land for the execution of the Special Railway Project, namely, Hospet-Hubli-Tinaighat Vasco-da-Gama doubling, in the State of Goa.	
8.	June 2020	NOC is granted by the National Board of Wildlife (NBWL) for the doubling of the railway line within the Mollem WLS	
9.	09.05.2022	NOC granted by the National Board of Wildlife (NBWL) for the doubling of the railway line within the Mollem WLS set aside by the Hon'ble Supreme Court vide order dt. 09.05.2022	*Annexure 7* at pg. 109
10.	19.05.2021	Dy Collector, Mormugao passes a judgement authorizing the land acquisition on Sy No 103/2(p) of Kalay village, among other areas.	*Annexure 10* at pg. 143
11.	29.11.2022	Apropos to the judgement dt. 19.05.2021, the Dy Collector passes an award authorizing the land acquisition on Sy No 103/2(p) of Kalay village.	
12.	02.05.2023	The Ministry of Railways (South Western Railway (Construction Organization) publishes another	

		notification under Section 20 (1) (A) of the Railways Act declaring its intention to acquire certain plots of land for the execution of the Special Railway Project, namely, Hospet -Hubli- Tinaighat - Vasco da Gama doubling, in the State of Goa in contravention of the Hon'ble Supreme Courts order dt. 09.05.2022	*Annexure 11* at pg. 149
13.	01.06.2023	Private persons in alleged possession of the acquired land file objections to the acquisition before the Dy, Collector	*Annexure 12* at pg. 151
14.	25.06.2023	The Government of Goa directs that a survey be carried out and Record of Rights prepared in respect of lands presently "in occupation of the South Western Railway" in terms of Section 56 of the Goa Land Revenue Code, 1968. The draft of the Index of land prepared by ISLR shows newly created 165/1 of Kalay Village which is allegedly occupied by South Western Railway.	

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15.	24.07.2023	Judgement is passed by this Hon'ble Court dt. 24.07.2023 directing the State of Goa to notify the protected areas of Bhagwan Mahavir Wildlife Sanctuary and Mollem National Park as a Tiger Reserve under the Wildlife Protection Act 1972.	*Annexure 5* at pg. 59
16.	16.01.2024	Application is made to drop the acquisition process to the Dy. Collector, on the basis that land acquired falls within Wildlife Sanctuary.	*Annexure 13* at pg. 159
17.	16.02.2024	Dy. Collector issues order dismissing the applications in objection to the acquisition and application to drop the acquisition process.	*Annexure 14 Colly* at pg. 163
18.	24.06.2024	ISLR dismissed objections to the newly created 165/1 of Kalay village.	*Annexure 16* at pg. 168
19.	22.10.2024	The Petitioner is informed by residents of Kalay village that trees in Sy No 165/1 of Kalay village, near the area where such loading and unloading activities were being carried out, had been marked for felling.	

20.	28.10.2024	Letter no.1 written by petitioner to Chief Wildlife Warden and MoEF&CC to take immediate action on felling of trees in 165/1 of Kalay village.	*Annexure 17 colly* at pg. 179
21.	30.10.2024	Letter no.2 written by the petitioner to the CWW and MoEF&CC to alert them about tree felling activities in 165/1 of Kalay village.	*Annexure 17 colly* at pg. 183
22.	February 2025	This instant petition is filed.	

Points for determination

1. Whether the land acquisition proceedings initiated under the Railways Act, 1989, for the doubling of the Hospet-Hubli-Tinaighat-Vasco railway line within the Bhagwan Mahaveer Wildlife Sanctuary are ultra vires the Wildlife Protection Act, 1972, and contrary to the Supreme Court's 2022 order revoking permissions for the project?

2. Whether the alteration of land revenue records, including the creation of a new survey number (Sy No 165/1) in Kalay village in favor of the South Western Railway, is legally tenable, considering that the said land falls within a notified wildlife sanctuary and is protected under the Wildlife Protection Act, 1972?

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3. Whether the actions of the state authorities, including the Chief Wildlife Warden, Directorate of Settlement & Land Records, and other respondents, in allowing or failing to prevent these encroachments, constitute a violation of statutory duties under the Wildlife Protection Act, 1972, and the constitutional duties and mandates for protection of the country's wildlife and wildlife habitats?

4. Whether the ongoing activities, including tree-felling and proposed development within the newly surveyed land falling within the sanctuary, pose an immediate threat to the ecological integrity of the Bhagwan Mahaveer Wildlife Sanctuary and require urgent judicial intervention to prevent irreversible environmental damage?

IN THE HON'BLE HIGH COURT OF JUDICATURE

OF BOMBAY AT PORVORIM, GOA

P.I.L. Writ Petition No. **5** /2025

IN THE MATTER OF ARTICLES 21, 14 & 226 OF THE CONSTITUTION OF INDIA AND RULE 4(e) OF THE BOMBAY HIGH COURT PUBLIC INTEREST LITIGATION RULES, 2010

AND

IN THE MATTER OF SECTIONS 18 AND 20 OF THE WILDLIFE PROTECTION ACT 1972

AND

IN THE MATTER OF SECTION 20A OF THE RAILWAYS ACT, 1989

AND

IN THE MATTER OF THE DSLR ORDER DATED 24 JUNE 2024 UNDER GOA LAND REVENUE CODE IN RESPECT OF LANDS FALLING IN THE WILDLIFE SANCTUARY

AND

IN THE MATTER OF STATUS OF LANDS FALLING WITHIN THE PRECINCTS OF THE BHAGWAN MAHAVEER WILDLIFE SANCTUARY IN KALAY VILLAGE.

1. THE GOA FOUNDATION
through its Secretary, Dr. Claude Alvares,
Age 75 years, Having Regd. Office at
Room No 7, Above Mapusa Clinic,
Mapusa, Goa 403507
PAN No. AAAAG0249C,
Income: Rs 10 - 15,00,000/- per annum (approx.),

.Registration No. - 23/Goa/86,
Email id: goafoundation@gmail.com

……**PETITIONER**

v/s.

1. **THE CHIEF WILDLIFE WARDEN,**
   Goa Van Bhavan, Forest Department,
   Altinho, Panaji, Goa - 403001.

2. **THE STATE OF GOA,**
   through its Chief Secretary,
   Secretariat, Porvorim, Goa - 403521.

3. **DY COLLECTOR & SDO, MORMUGAO TALUKA**
   Ravindra Bhavan, Baina,
   Vasco Da Gama.

4. **DIRECTORATE OF SETTLEMENT & LAND RECORDS**
   Collectorate Building, Swami Vivekanand Rd,
   Near Military Head Qts,
   Panaji, Goa 403001

5. **THE MINISTRY OF ENVIRONMENT, FORESTS & CLIMATE CHANGE**,
   Through its Secretary,
   Indira Paryavaran Bhavan,

Jor Bagh Road, New Delhi 110 003.

6. **SOUTH WESTERN RAILWAY,**
Through its General Manager,
Opposite Railway High School (EM)
Gadag Road, Hubli, Karnataka - 580020.

….**RESPONDENTS**

(Above addresses are registered addresses of parties)

PETITION UNDER ARTICLE 226

OF THE CONSTITUTION OF INDIA

To,

The Hon'ble Chief Justice

and His Companion Judges,

Bombay High Court at Porvorim, Goa

THIS HUMBLE PETITION OF THE PETITIONER MOST RESPECTFULLY SHOWS AS UNDER

PARTICULARS OF THE CAUSE AGAINST WHICH THIS PIL IS FILED

1. This petition has been filed in response to significant encroachment into lands within the Bhagwan Mahaveer Wildlife Sanctuary in Kalay village, ostensibly for the purpose of doubling the Hospet-Hubli-Tinaighat-Vasco railway line and connected works. Despite the Hon'ble Supreme Court specifically revoking all permissions for railway track doubling work within the sanctuary in 2022, land acquisition proceedings and alterations to land revenue records have nevertheless been initiated in favor of the South Western Railways, within the protected area, in blatant violation of the provisions of the Wildlife Protection Act, 1972 (WLPA) and the apex court's order. The WLPA explicitly bars accrual of any rights in, on, or over land within a notified

sanctuary, with specific exceptions (succession, testamentary and intestate) – which do not apply in this case.

2. This petition details two distinct methods relied upon for such encroachment by the South Western Railways into the protected area, hence is in two parts. The first part lays out the illegal land acquisition proceedings under the Railways Act. The second part deals with changes in the land revenue records carried out in the year 2024 for the creation of a new survey number, Sy No 165/1, in Kalay village in favour of the South Western Railways which includes the entire length of the existing railway track through the village as well as large tracts of land on either side. Significant portion of the land declared part of the SWR in this fashion falls within the wildlife sanctuary. Recently, a large number of trees falling within the sanctuary area of this new survey number have been marked for felling.

3. The petition challenges the powers of the SWR and of the DSLR to either acquire lands within the wildlife sanctuary or pass any orders relating to the status of lands within the wildlife sanctuary. Such orders are *de hors* the Wildlife Act, 1972.

4. The petition further submits that attempts to acquire land within the sanctuary are intimately linked to the non-settlement of rights within the notified sanctuary for over 40 years, which remains incomplete despite orders from the Hon'ble Supreme Court and this Hon'ble Court.

5. Notwithstanding the protections afforded by the WLPA, the order of the Hon'ble Supreme Court and ongoing proceedings for the settlement of the rights, the wildlife habitat is still under threat

from human encroachment. These activities are impinging about the wildlife habitat and its security, and therefore, the wildlife in the sanctuary as well. Hence this PIL.

PARTICULARS OF THE PETITIONER

6. The Petitioner is an environment NGO based in Goa who has approached both, this Hon'ble Court and the Hon'ble Supreme Court, time and again over the past three decades, in public interest, for enforcement of the provisions of environment, wildlife and forest laws, coastal regulation, land use, pollution and mining laws. Petitioner has filed several PILs for protection of the Bhagwan Mahavir Wildlife Sanctuary and National Park and other sanctuaries of the state. All the members of the society are citizens of India. The average annual income of the Petitioner organization is between Rs.10 to Rs.15 lakh. The Petitioner states that there is no civil, criminal or revenue litigation involving the Petitioner organization which has or could have a legal nexus with the issue involved in this PIL. Registration certificate and resolution of the petitioner organisation, together with an undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is filed by the petitioner and is marked and enclosed at **Annexure 1 Colly.**

PARTICULARS OF THE RESPONDENTS

7. Respondent no.1 is the Chief Wildlife Warden, whose dereliction of duty allowed orders to be passed by the Dy. Collector allowing acquisition of land in a Wildlife Sanctuary.

Respondent no. 2 is the State of Goa through its Chief Secretary. Respondent no. 3 is the Deputy Collector/SDO, Mormugao, whose orders dt. 19.05.2021 allowed the acquisition of 103/2(p) of Kalay village which falls within the wildlife sanctuary and 16.02.2024 which held that there is no bar on land acquistion under Railways Act, even if the land falls under Wildlife Sanctuary. Respondent no.4 is the Directorate of Survey and Land Records whose order dt. 02.06.2024., allowed for the creation of a new survey no. 165/1 in the land records of Kalay Village and vesting in the ownership of respondent no. 6 without any valid property papers. Respondent no. 5 is The Ministry Of Environment, Forests & Climate Change, through its Secretary. Respondent no. 6 is South Western Railway, who are the purported owners of newly created 165/1 of Kalay Village.

DECLARATION OF THE PETITIONER

7. The Petitioner states that this petition is filed by way of public interest. The petitioner does not have any personal interest in the matter. Reliefs claimed are in the public interest and in the interests of wildlife.

8. The Petitioner states that the entire litigation costs and other charges are being borne by the Petitioner.

9. The Petitioner states that adequate research has been conducted in the matter raised through the petition and all relevant material has been annexed to the petition. More may be added, if necessary, at

a later stage.

10. The Petitioner states that to the best of its knowledge and research the issues raised in the petition were not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner on the same matter either in this Hon'ble Court or in the Supreme Court of India.

11. The Petitioner states that this Hon'ble Court has jurisdiction to hear and decide this matter.

12. The Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and the Petitioner shall comply with such charges.

FACTS CONSTITUTING THE CAUSE

13. The petition sets out that the Bhagwan Mahavir Wildlife Sanctuary – which is contiguous to the Mollem National Park – was notified originally as a game sanctuary in 1967. In 1978, the area today known as the Mollem National Park was carved out of the earlier notification and notified as a National Park under the Wildlife Protection Act (WLPA), 1972. In 1982, the balance area of the game sanctuary was notified as a Wildlife Sanctuary (WLS) under Section 18 of the WLPA. The lands that are subject matter of this PIL fall within the boundaries of the WLS. The sanctuary was later renamed the Bhagwan Mahaveer Wildlife Sanctuary

(BMWLS) in 1984. The relevant notifications dt. 28.12.1967; 27.09.1982; and 05.04.1984 are annexed to this petition as **Annexure 2 Colly**.

14. Being the oldest, this PA is a vital wildlife habitat of Goa, being home to a number of endangered species, including tigers. In fact, the Government of Goa has been mandated, as per directions of this Hon'ble Court in its judgment dated 24.07.2023 to notify this area (with others) as a Tiger Reserve under the provisions of the WLPA. The BMWLS is also contiguous with the Kali tiger reserve and the Anshi Dandeli Wildlife Sanctuary in Karnataka, forming part of an important tiger corridor and contiguous wildlife habitat system within the Western Ghats.

15. For the purposes of this petition, it is necessary to note that parts of Kalay [*also known as Calem*] Village, Taluka Sanguem, South Goa, fall within the precincts of the BMWLS. An extract of the regional plan showing the relevant areas of Kalay village within the boundaries of the BMWLS, enclosed as **Annexure 3.**

16. The petitioner submits that once an area is notified under Section 18 of the WLPA, there is a bar on the accrual of any rights in, on or over the protected area under Section 20 of the Act. Section 20 allows only three specific exceptions – by succession, testamentary or intestate. The relevant provision of the WLPA is reproduced, verbatim below:

> "20. Bar of accrual of rights. —After the issue of a notification under section 18, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate."

17. Upon the notification of an area under Section 18 of the WLPA, the Act provides for a procedure for the settlement of rights of any person in or over the lands comprised within the limits of the sanctuary, as they existed on the date of the notification. This process is governed by Sections 19 to 24 of the WLPA. During this procedure, claims and rights of individuals or communities are investigated and settled. Following the settlement of such rights, the land may either be excluded from the limits of the sanctuary or acquired by the State under Section 25 of the WLPA for the purpose of enforcement of the Act. Once the settlement of rights is completed as per these provisions, a final notification is issued under Section 26A of the WLPA.

18. Despite the passage of 40 years since the BMWLS was notified in 1982, the process of the settlement of rights as per Sections 19 to 24 of the WLPA remains incomplete. The Hon'ble Supreme Court, in *Center for Environmental Law, WWF vs UOI & Ors* vide order dated 22.08.1997, noted that the process of settlement of rights within wildlife sanctuaries across the country was still pending and directed all State Governments to expedite the settlement of rights in accordance with the provisions of the

Wildlife Protection Act and complete the process within 1 year of the order. A copy of the order of the Hon'ble SC dated 22.08.1997 is enclosed as **Annexure 4**.

19. More recently, this Hon'ble Court vide its judgment dt. 24.07.2023 in P.I.L. W.P. 15/2022 filed by this Petitioner has directed the State of Goa to notify the protected areas of BMWLS and Mollem National Park [*amongst other areas*] as a Tiger Reserve under the Wildlife Protection Act 1972, based on a recommendation from the National Tiger Conservation Authority. That order and judgment was passed on 24.07.2023. One year's time was given to the state government to complete the settlement of rights of persons found residing within the sanctuary precincts. A copy of the judgment dated 24.07.2023 is enclosed as **Annexure 5**. The state government assured this Hon'ble Court that it would complete the process of settlement of rights within the time stipulated. However, when this did not happen, the petitioner filed a contempt petition. The state government sought further time for compliance and this Hon'ble Court extended the time by another 9 months. A copy of the order of this Court dated 17.10.2024 is at **Annexure 6.**

20. The Petitioner submits that while the process for the settlement of rights for these areas under the WLPA, is under directions of both the Hon'ble Supreme Court and this Hon'ble Court, and are presently incomplete, parallel, piecemeal, land acquisition proceedings are being initiated and permitted within the notified

protected area for purposes that are ultra vires the provisions of the Wildlife Protection Act. The statutory authorities responsible for the management and protection of the WLS have not only failed to take action as needed to prevent such encroachments but have instead permitted such illegal land acquisition proceedings to continue. A chronology of the events leading up to the impugned encroachments is detailed below.

21. In 2010, the Ministry of Railways sanctioned the doubling of the railway line between Hospet-Tinaighat-Vasco in the states of Karnataka and Goa with a total length of 345 km in two phases. Phase 1 comprises the line between Hospet and Tinaighat and Phase 2 comprises the line between Tinaighat and Vasco. The stretch between Castlerock and Kulem, passing through the protected area is part of Phase-2. The alignment of the second proposed railway line runs parallel to the existing line and passes through prime forested tracks between Castlerock and Kulem. Castlerock forests are part of Dandeli-Anshi Tiger Reserve (DATR), in Karnataka, while forests between the Goa-Karnataka border and Kulem fall within the Bhagwan Mahaveer Wildlife Sanctuary (BMWLS) and National Park in Goa.

22. The existing railway line from Hospet to Vasco was laid in 1900 and once connected iron ore mining/industrial areas in Hospet to Mormugao Port in Vasco. As per an affidavit filed by the SWR in WP No.27/2024, the Kalay railway station was constructed in 1997, much after the notification of the area as a wildlife

sanctuary. It is unclear how such a construction could have come up within the protected area or whether any permissions at all were granted for the same by the wildlife authorities.

23. In June 2020, NOC granted by the National Board of Wildlife (NBWL) for the doubling of the railway line within the WLS, was reported by the Petitioner to the Central Empowered Committee (CEC) of the Hon'ble SC which recommended the cancellation of the NOC. Thereafter, the report of the CEC was placed before the Hon'ble Supreme Court which was pleased to accept the recommendations of the CEC and set aside the NOC granted by the NBWL for the project vide order dated 09/05/2022 in I.A. No. 61370/2021 in Appl. No. 1440/2020. Thus presently, the Hon'ble SC order led to restrictions placed on the South Western Railway for constructing a second railway line within the wildlife habitat due to the effects of enhanced railway activity on the condition of the wildlife and the wildlife habitat, in terms of its order dt. 09.05.2022 in *I.A. No. 61370 of 2021.* A copy of the order of the Apex Court is at **Annexure 7**.

24. It is also pertinent to note that the Ministry of Environment, Forest, and Climate Change (MoEF&CC) has clarified through its 2017 directive that railway projects within wildlife sanctuaries must abide by the Wildlife Protection Act, 1972, due to the significant risks rail transport poses to protected species and habitats. A copy of the directive is enclosed as **Annexure 8.** It is thus clear that

Railway projects are not in any way exempt from the applicability of the Wildlife Protection Act.

First part: Encroachment via Land Acquisition under the Railways Act, 1989

25. Despite the Ministry of Environment's 2017 order, on 04.03.2020, the Ministry of Railways (South Western Railway (Construction Organization) issued a notification under Section 20 (1) (A) of the Railways Act declaring its intention to acquire land for the execution of the Special Railway Project, namely, Hospet-Hubli-Tinaighat Vasco-da-Gama doubling, in the State of Goa. A copy of the notification dated 04.03.2020 is enclosed as **Annexure 9.** Of the areas listed within the schedule, Sy No 103/2 (p) falls within the notified wildlife sanctuary. The notification was issued despite section 20 of the Wildlife Act.

26. To the best knowledge of the Petitioner, it appears that there was no consultation with the wildlife authorities in the land acquisition proceedings under the Railways Act. Either unaware or negligent, the Chief Wildlife Warden (CWW) took no action and the land acquisition proceedings continued without interference. On 19.05.2021 the Dy Collector passed a judgement authorizing the land acquisition on Sy No 103/2(p) of Kalay village, among other areas. A copy of the judgement dated 19.05.2021 is enclosed as **Annexure 10.** The order, in so far as it relates to Sy.No.103/2(p) is wholly without jurisdiction and *ultra vires* the Wildlife Act.

27. The Petitioner submits that the award issued by the Dy Collector is not the final award for acquisition. The Railways Act details several further steps to be completed before the final acquisition is completed. Under Section 20 E of the Railways Act, multiple procedures must be completed before the land acquisition process is completed and ownership transferred to the Central Government. After a notification for land acquisition is published under Section 20A, the competent authority, the Dy Collector in this case, is empowered to hear objections from interested parties. Where no objections have been made, or where the competent authority has disallowed the objections, the competent authority shall submit a report accordingly to the Central Government. On receipt of such a report, the Central Government shall declare, by notification, that the land should be acquired. Only on the publication of the declaration shall the land vest absolutely in the Central Government free from all encumbrances.

28. However, the Act specifies a strict limitation period for the notification of such declaration. The final declaration by the Central Government must be issued within one year of the notification under Section 20 being published, else the entire process lapses. The award issued by the Dy Collector specifically notes the same as well. Yet, despite being well over this limitation period, the award is passed and proceedings continue.

28A. The Petitioner submits that at the time of filing the Petition, despite best and diligent efforts, no final declaration under Section 20E of the Railways Act, 1989, was available in the public domain or otherwise accessible to the Petitioner. Conscious of this lacuna, the Petition specifically pleaded that no valid notification under Section 20E had been made within the statutory period of one year. Subsequent to the filing of the Petition, the Petitioner has now obtained, for the first time, a copy of the Gazette Notification dated 31.05.2021, published on 04.06.2021 (S.O. 2162(E)), issued by the Ministry of Railways under Section 20E(1) of the Railways Act, 1989, which is annexed and marked hereto as **Annexure 10-A**. By this declaration, the Central Government, purporting to act on the report of the Dy. Collector, Mormugao dated 20.05.2021, declared that inter alia lands in Survey No. 103/2(p), Kalay village, falling within the Bhagwan Mahaveer Wildlife Sanctuary, shall stand acquired for the doubling of the Vasco da Gama–Kulem section of the Tinaighat–Vasco da Gama line.

28B. The said declaration is ex facie illegal and non-est in law, being (i) barred under Section 20 of the Wildlife Protection Act, 1972, which prohibits accrual of rights within a notified sanctuary; and (ii) in violation of Section 20E(3) of the Railways Act itself, as it was issued beyond the one-year period from the initial Section 20A notification dated 04.03.2020. The impugned declaration dt. 31.05.20221 therefore warrants being set aside.

29. On 02.05.2023, despite the Supreme Court of India cancelling the NOC for the railway track doubling project by its order dated 09/05/2022, the Ministry of Railways (South Western Railway (Construction Organization) went ahead and published another notification under Section 20 (1) (A) of the Railways Act declaring its intention to acquire certain plots of land for the execution of the Special Railway Project, namely, Hospet-Hubli-Tinaighat-Vasco-da-Gama doubling, in the State of Goa. A copy of the notification dated 02.05.2023 is enclosed as **Annexure 11.** Shockingly, *all* of the survey numbers specified within the Schedule for Calem (Kalay) village fall within the limits of the Bhagwan Mahaveer Wildlife Sanctuary.

30. It appears that certain private persons – parties with interests in the land and allegedly in present occupation of the said land – had filed their objections before the Dy Collector conducting the land acquisition for SWR (Resp.No.6) on 01.06.2023. A copy of the objections dated 01.06.2023 is enclosed as **Annexure 12.**

31. During the course of the proceedings, separate and specific applications were made to the Dy Collector to drop the acquisition proceedings under the Railways Act, in view of the bar on accrual of rights as per Section 20 of the Wildlife Protection Act. Copy of one such application dated 16.01.2024 is enclosed as **Annexure 13.** The application clearly brings to the notice of the competent authority that the impugned lands (Sy Nos 104/1, 104/2 and 106/1 of Kalay village) fall within the notified Wildlife Sanctuary, and

that in view of the bar on accrual of rights as per Section 20 of the WLPA – such land cannot, under any circumstances be acquired by the railways under the Railways Act, 1989.

32. Vide order dated 16.02.2024, the Dy Collector dismissed the above applications on the following basis:

- that the Dy Collector is not the competent authority under the WLPA;
- that merely because the property comes under the wildlife sanctuary, there is no bar on the acquisition of the same under the Railways Act;
- that properties in Kalay village have been acquired earlier by SWR vide notification dated 04.03.2020 under the Railways Act, 1989; and
- the land proposed for acquisition adjoins the existing railway track and the same is proposed for executing special railway project for public purpose under Section 20A of the Railways Act 1989.

A copy of the impugned order dated 16.02.2024 is enclosed as **Annexure 14.**

33. The Petitioner submits that the impugned order of the Dy Collector has been passed without any application of mind and without jurisdiction. Despite being made aware of the statutory bar on accrual of any rights within the sanctuary, the Dy Collector has dismissed these applications and allowed the land acquisition

proceedings to continue. Further, the continuation of the proceedings is in the teeth of the order of the Supreme Court dated 9.5.2022, explicitly cancelling wildlife NOC for the railway doubling project through the wildlife sanctuary and national park. In fact, it amounts to contempt of the Supreme Court's order.

Section 2 - Encroachment into the Sanctuary via Re-Survey under the Goa Land Revenue Code, 1968

34. Vide notification dated 25.06.2023, the Government of Goa directed that a survey be carried out and Record of Rights prepared in respect of lands presently "in occupation of the South Western Railway" in terms of Section 56 of the Goa Land Revenue Code, 1968.

35. Accordingly, a survey was carried out and a Draft of the Index of Land prepared by the Inspector of Survey and Land Records as per which a new Sy No 165/1 was then created and allotted to the land allegedly occupied by the South Western Railway. The newly created Sy No 165/1 admeasures a total of 2,74,300 sq mts and includes not only the entire length of the existing railway track through the village but also significant portions around it through the entire length of the village. This includes significant portions that fall within the Bhagwan Mahaveer Wildlife Sanctuary as well. The petitioner has prepared a map highlighting the areas of the newly created Sy no 165/1 that fall within the WLS, enclosed as **Annexure 15.** Petitioner is concerned here only with the portions

assigned to the newly created Sy.No.165/1 which fall within the boundaries of the wildlife sanctuary.

36. It appears that objections were filed by certain residents of the village regarding the promulgation of the record of rights in favour of South Western Railway pertaining to the part of newly created Sy no 165/1 adjoining Sy no 106/1, 104/1 and 104/2 of Kalay village. The objections brought to the notice of the authorities that SWR has no legal right of any nature over the aforesaid property and that SWR had not produced even a single document to establish that they are the owners in title of the said land.

37. However, on 24.06.2024, the ISLR dismissed these objections and passed an order to change revenue records to reflect the name of SWR over new Sy No 165/1 of Kalay village, parts of which also fall within the limits of the sanctuary over which he had no jurisdiction. A copy of the impugned order of the ISLR dated 02.06.2024 is enclosed as **Annexure 16.** The order is bad in law since the ISLR has simply no power to issue any orders in respect of sanctuary land.

38. It is unclear on what basis the ISLR survey has concluded the extent of the land around the railway track to be included as allegedly in occupation of the South Western Railway, especially in areas that fall within the Wildlife Sanctuary. The Petitioner submits that the land is not owned by the SWR and belongs to the

WLS, where the wildlife, not the railway, has right of way. The respondent has been unable to provide any documents to substantiate any claims of ownership over this property. In any event, a mere change in the land revenue records does not confer title, since Form I&XIV is not a document conferring title.

39. By modifying the revenue records and reflecting SWR's name in an area that is governed by the WLPA and must remain with the wildlife authorities, the ISLR's order virtually removes significant portions of sanctuary land from the protection of the Wildlife Protection Act without adherence to the procedure established by law and by several orders of the apex court. This not only undermines the sanctity of the sanctuary boundaries but also sets a dangerous precedent for further illegal encroachment within protected areas.

40. In fact, these revenue records are now being used by the Resp No 6 to apply for permissions for the loading and unloading of mineral ore at the Kalay railway station within the WLS – an activity that was thus far being conducted illegally, with no permissions from the CWW. It was only after the Petitioner herein approached this Hon'ble Court in PILWP No. 27/2024 that this activity was stopped. Thereafter, permissions have been applied for. If granted, petitioner has been granted explicit leave by this Hon'ble Court to launch a challenge.

41. On 22.10.2024, the Petitioner was informed by residents of Kalay village that trees in Sy No 165/1, near the area where such loading and unloading activities were being carried out, had been marked for felling. The Petitioner urgently wrote to both, the CWW and the MoEF&CC, along with photographs of the marked trees, to alert the authorities and to urge them to take immediate action. A copy of the letters dated 28.10.2024 and 30.10.2024 are enclosed as **Anneuxre 17 colly.** In these letters the Petitioner also detailed the unlawful land acquisition proceedings and mismanagement of the sanctuary land.

42. The Petitioner respectfully submits that it is of utmost importance and urgency that a comprehensive examination and survey by the relevant wildlife authorities be carried out for the portions of the newly created Sy No 165/1 in Kalay village falling within the boundaries of the Bhagwan Mahaveer Wildlife Sanctuary. Based on this assessment, it is imperative that a notification be issued under the Wildlife Protection Act, 1972, to reflect these parts of Sy No 165/1 as sanctuary land in the official records. This will ensure that the integrity of the sanctuary is preserved and that all land-related proceedings are fully compliant with the law, particularly the provisions of the Wildlife Protection Act.

GROUNDS

43. Petitioner therefore approaches this Hon'ble Court on the following grounds, amongst others:

A. The impugned orders of the competent authority of the SWR dated 04.03.2020 and of the ISLR dated 02.05.2023 are without jurisdiction and therefore need to be quashed and set aside. Further, both orders have been issued after the Supreme Court has removed the sanction granted by the NBWL for the railway doubling project within the wildlife sanctuary. They are also therefore in contempt of the apex court.

B. Bhagwan Mahaveer Wildlife Sanctuary is a notified protected area under Section 18 of the Wildlife Protection Act, 1972. Sy Nos 103/2(p), 104/1(p), 104/2(p), 106/(p), 107/1(p), 107/2(p), 107/3(p), 107/5(p), 108/1(p), 108/2(p), 108/3(p), 108/4(p) and 165/1(p) of Kalay village fall squarely within the WLS and are thus governed by the provisions of the WLPA.

C. Section 20 of the WLPA expressly imposes a bar on the accrual of any rights in, on or over the land within the limits of the area specified in the Notification, except by succession, testamentary or intestate. None of the three conditions specified apply in case of the railway doubling project.

D. Once an area is notified as a wildlife sanctuary, only those activities that are for the benefit of wildlife may be permitted. When land is acquired for a WLS under Section 25 of WLPA, the acquisition is stated to be for public purpose. The term "public purpose" within the WLPA is thus limited to activities that benefit wildlife and the sanctuary’s preservation. SWR’s invocation of public purpose for a railway project contradicts

this interpretation and cannot be applied within the confines of a sanctuary. This acquisition thus sets a dangerous precedent, conflicting with the sanctity of the protected area and the public trust doctrine, which mandates that the state hold natural resources, especially wildlife habitats, in trust for future generations.

E. Any process of acquisition of rights within a Sanctuary, which is initiated by the State Government has to follow the procedure laid down under the WLPA [S 18 to 26A]. This is particularly applicable, when a notification to constitute a Sanctuary has already been issued and the acquisition is deemed to be for a public purpose. Hence, any acquisition proceedings within the same area under the Railways Act would not be invalid or tenable, especially when the same is for contrary and cross purposes to the object and purpose of the WLPA.

F. The process of settlement of rights under the WLPA are still pending for over 40 years. However, parallel land acquisition proceedings are being permitted within the limits of the same wildlife sanctuary for a railway project *ultra vires* the object and purpose of the WLPA.

G. Thus, both the impugned notifications issued under Section 20A(1) of the Railways Act dated 04.03.2020 and 02.05.2023, to the extent that they declare an intention to acquire land

within the Bhagwan Mahaveer Wildlife Sanctuary, are unlawful, non-est and contrary to the provisions of the WLPA, which governs this protected area.

H. The impugned order of the Dy Collector dated 16.02.2024 has been passed without any application of mind and without jurisdiction. The Dy Collector cannot ignore provisions of the WLPA, specifically the bar on accrual of rights to permit land acquisition proceedings for a railway project within a notified WLS, especially if this has been brought to his notice.

I. The impugned order of the Dy Collector 16.02.2024 is based on wholly incorrect and irrelevant grounds. Previous land acquisition outside of the WLS in the same village cannot form the basis of land acquisition within the WLS, as bad law cannot be used to violate the law.

J. Under Section 20 E of the Railways Act, multiple procedures must be completed before the land acquisition process is completed and ownership transferred to the Central Government. After a notification for land acquisition is published under Section 20A, as the competent authority, the Dy Collector in this case, is empowered to hear objections be interested parties Where no objections have been made, or where the competent authority has disallowed the objections, the competent authority shall submit a report accordingly to the Central Government. On receipt of such report, the Central

Government shall declare, by notification, that the land should be acquired. Only on the publication of the declaration shall the land vest absolutely in the Central Government free from all encumbrances. However, the Act specifies a strict limitation period for the notification of such declaration.

K. Section 20E (3) of the Railways Act specifically states that where in respect of any land, a notification has been published under sub-section (*1*) of section 20A for its acquisition, but no declaration under sub-section (*1*) of this section has been published by the Central Government within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect. The only exception here is with regards any action or proceedings to be taken in pursuance of the notification issued under sub-section (*1*) of section 20A which is stayed by an order of a court.

K-A. The Gazette Notification dated 31.05.2021 (S.O. 2162(E)), issued under Section 20E (1) of the Railways Act, is illegal, without jurisdiction, as it purports to acquire land forming part of a notified Wildlife Sanctuary, which is expressly barred under Section 20 of the Wildlife Protection Act, 1972. Any process of acquisition of rights within a Sanctuary, which is initiated by the State Government, has to follow the procedure laid down under the WLPA. The order dt. 31.05.2021 is also barred by limitation under Section 20E (3) of the Railways Act, as it was made more than one year after the publication of the original Section 20A notification dated 04.03.2020, and is therefore *non-est*.

L. The Award issued by the Dy Collector dated 29.11.2022 is unlawful and contrary to the WLPA insofar as it relates to Sy No 103/2(p).

M. The special railway project does not have any approvals under the WLPA. In fact, the Hon'ble SC has clearly rejected the project within the WLS due to its apprehended damage to the wildlife habitat. Further, unlawful land acquisition is being permitted through piecemeal and fragmented proceedings over

several years. The Hon'ble Supreme Court's ruling in *Lafarge Umiam Mining Pvt. Ltd. v. Union of India* held that linear projects like roads and railways within sensitive habitats should not be piecemeal and must consider the cumulative impact on the environment.

N. The ISLR has modified revenue documents to reflect SWR's name without any proof of ownership or documents produced. Significant portions of Sy No 165/1 of Kalay village falls within the Bhagwan Mahaveer Wildlife Sanctuary and as such, any settlement of rights must be done under the provisions of the Wildlife Protection Act only.

O. Through the ISLR's order, large tracts of sanctuary land now have SWR's name reflected in revenue records and thus sanctuary records. The modification of revenue records by the ISLR to include SWR's name, without any supporting documents or proof of ownership, is wholly unjustifiable and illegal.

P. Sy No 165/1 being a new survey number that has been created in 2024, does not appear in the list of survey numbers falling within the wildlife sanctuary notification from the year 1984. However, as per the physical boundaries described within, a major part of Sy No 165/1 falls within the protected area.

Q. These orders, passed without any consultation with the Wildlife Authorities, completely ignore provisions of the WLPA that govern the impugned lands and hand over sanctuary land to SWR, without even the pretense of following due procedure.

R. Such other and further grounds that may be urged at the time of hearing.

SOURCE OF INFORMATION

44. The Petitioners are relying on information received from residents of Kalay village, as well as information received under the R.T.I. Act and information publicly available on Government websites/Gazettes/official records.

DELAY, IF ANY, IN FILING THE PETITION

45. There is no delay in the filing of this petition. The Petitioner became aware of land acquisition proceedings within the wildlife sanctuary through statements made by the respondents in PILWP 1035/2024. Thereafter, the Petitioner made relevant inquiries and research to make representations to the relevant authorities prior to approaching this Hon'ble Court. In any case, the impugned notifications and orders are completely illegal and non-est in so far as they facilitate land acquisition and land appropriation within a wildlife sanctuary for purposes that are ultra vires and contrary to the provisions of the WLPA.

REPRESENTATIONS MADE

46. The Petitioner has written to the CWW and the MoEF&CC vide letters dated 28.10.2024 and 30.10.2024, enclosed as **Annexure 17 Colly.**

DOCUMENTS RELIED UPON

47. A list of documents to be relied upon is provided in the index.

NATURE AND EXTENT OF INJURY AND REASONS FOR STAY:

48. The proposed land acquisition for the railway line doubling project within the Bhagwan Mahaveer Wildlife Sanctuary presents an immediate threat to the sanctuary's ecological integrity. Permitting the impugned land acquisition, despite the WLPA's prohibitions, constitutes a clear violation of statutory protections and the principles underpinning India's environmental law framework. Allowing this acquisition would set a damaging precedent, undermining the rule of law in wildlife conservation.

49. Trees have already been marked for feeling within the protected area without any permissions from the wildlife authorities. In case no such permission can be granted for this project within the wildlife sanctuary. The Petitioner is apprehensive that tree felling may begin at any time causing irreversible damage to the protected wildlife habitat. This project threatens extensive tracts of old-growth forest, which have developed over centuries, providing a

critical habitat for a diverse range of wildlife, including endangered species. Once cleared, these forests cannot be restored to their original state, resulting in a permanent loss of biodiversity and ecosystem functions.

PRAYERS:

50. The Petitioner is therefore praying for the following reliefs, in the public interest:

A. For a writ of certiorari or an order in the nature of a writ quashing and setting aside the notification dated 04.03.2020, issued by the Ministry of Railways (South Western Railway Construction Organization), under Section 20 (1) (A) of the Railways Act, 1989, in so far as it relates to Sy No 103/2(p) Kalay village;

B. For a writ of certiorari or an order in the nature of a writ quashing and setting aside the judgement dated 19.05.2021 issued by the Dy Collector in so far as it relates to Sy No 103/2(p) Kalay village;

BB. For a writ of certiorari or an order in the nature of a writ quashing and setting aside the Final declaration dated 31.05.2021 issued by the Ministry of Railways under Section 20E(1) of the Railways Act, 1989 (S.O. 2162(E)), published in the Gazette of India on 04.06.2021, in as far as it relates to Survey No. 103/2(p), Kalay village, Goa.

C. For a writ of certiorari or an order in the nature of a writ quashing and setting aside the notification dated 02.05.2023, issued by the Ministry of Railways (South Western Railway Construction Organization), under Section 20 (1) (A) of the Railways Act, 1989, in so far as it relates to Kalay village;

D. For a writ of certiorari or an order in the nature of a writ quashing and setting aside order dated 16.02.2024, issued by the Dy. Collector & SDO;

E. For a writ of certiorari or an order in the nature of a writ quashing and setting aside the order dated 24.06.2024, issued by the Inspector of Settlement and Land Records (ISLR) in so far as it relates to lands within the wildlife sanctuary;

F. For a writ of prohibition or an order in the nature of a writ, permanently restraining the DSLR from passing any orders under the Goa Land Revenue Code relating to any lands falling within the Mollem Wildlife Sanctuary and national park;

G. For costs of this petition;

H. Any other reliefs this Hon'ble Court may be pleased to grant;

INTERIM RELIEFS:

I. For an order restraining the Resp. No 6, from carrying out any tree felling in the impugned Sy No 165/1 of Kalay village to the extent that it falls within the wildlife sanctuary, pending the hearing and final disposal of this petition;

J. For an order staying the cutting of trees or any other development within the boundaries of the Bhagwan Mahaveer Wildlife Sanctuary for the Hospet-Hubli-Tinaighat-Vasco railway line doubling project, pending the hearing and final disposal of this petition;

K. For an order restraining the Respondents from carrying out any further activities, including land acquisition proceedings, within the boundaries of the Bhagwan Mahaveer Wildlife Sanctuary for the Hospet-Hubli-Tinaighat-Vasco railway line doubling project, pending the hearing and final disposal of this petition;

L. For an order staying the operation of the ISLR order dated 24.06.2024, in so far as it relates to the lands that are located within the wildlife sanctuary.

AD INTERIM RELIEF:

M. For ex-parte, ad-interim relief in terms of Prayer Clause (I) above;

51. **CAVEAT**

No notice has been received of lodging a caveat by the opposite parties.

For the above, the Petitioner is very grateful.

PLACE: MAPUSA, GOA

DATE: PETITIONER

IN THE HON'BLE HIGH COURT OF JUDICATURE OF BOMBAY AT PORVORIM, GOA

P.I.L. Writ Petition No. /2025

The Goa Foundation ….Petitioner

V/s

Chief Wildlife Warden & Ors …Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr. Claude Alvares, Indian National, Secretary of the Petitioner organization above named, do solemnly state on oath as under:

1. I say that I have today filed a Writ Petition in public interest for the reliefs sought therein, which has been prepared under the instructions of the Petitioners.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioner is ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed

for extraneous consideration or that it lacks bonafides.

4. The petitioner shall disclose the source of its information, leading to the filing of the PIL, if and when called upon by the Court to do so.

5. That the contents of the accompanying petition are correct and true are true to the best of my knowledge and information collected by me from the Departments of Government and official gazettes/websites/ internet which I believe to be true, and the contents of paras 43 to 51 are my submissions made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

6. I say that the documents annexed are true and correct copies of their respective originals.

Solemnly affirmed at Mapusa, Goa,
on this the Deponent

ANNEXURE 1 Colly

C E R T I F I C A T E

****

In view of the Affidavit filed by the Secretary of the Society ' THE GOA FOUNDATION ' for the purpose of 3 (B) (4) of the Societies Registration (Goa Amendment) Act,1998, it is hereby certified that the registration of the said Society, registered under the Societies Registration Act, 1860 under No.23/Goa/86 is hereby renewed for a further period of five years w.e.f. 11-6-2000.

Dated:- 2nd August, 2000.

OFFICE OF INSPECTOR GENERAL SOCIETIES
PANJI

(P. V. S. Sardessai)
Inspector General
By -Order

Registration renewed till 11-06-2015
Dated 21/01/2011

Inspector General of Societies/
/District Registrar (North Goa)
By Order

21/1/2011

Office of Inspector General of Societies

Registration renewed 11-06-2020
Dated 24-09-2015

Inspector General of Societies/
/District Registrar (North Goa)
By Order

24/9/2015

Office of Inspector General of Societies

Registration renewed 11-06-2025
Dated 11-09-2020

Inspector General of Societies/
/District Registrar (North Goa)
By Order

11/09/2020

Office of Inspector General of Societies

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GOA
FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
Tel: +91-(0)832-2256479; 2263305 (also fax)
E-mail: goafoundation@gmail.com Website: www.goafoundation.org

Certified Copy of Resolution of the Goa Foundation

Certified that the resolution copied below was unanimously passed and adopted at the AGM of the Society held on 13.8.2021:

"This AGM hereby authorises either the President or the Secretary to approach appropriate fora including the NGT, High Court and Supreme Court in respect of the public interest matters approved for filing after discussion at the AGM held on 13th August 2021."

(Dr Claude Alvares)

Secretary

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IN THE HON'BLE HIGH COURT OF JUDICATURE
OF BOMBAY AT PORVORIM, GOA

P.I.L. Writ Petition No.____ /2025

The Goa Foundation **…..Petitioner**

Versus

The Chief Wildlife Warden and Ors. ….**Respondents**

UNDERTAKING IN SUPPORT OF THE PETITION

I, Dr. Claude Alvares, Indian National, Secretary of the Petitioner organization above named, undertakes that I will disclose the source of information leading to the filing of this Public Interest Litigation if and when called upon by the Court to do so.

Place: Goa
Date:

Petitioner

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FORM XIV
(See Rule 40)

Register of cultivators and

Year	Name of cultivator	Mode	Season	Details of cropped area			Lands not cultivated for cultivation		Source of irrigation	Remarks
				Name of crop	Irrigated Ha. As.	Unirrigated Ha. As.	Nature	Area Ha. As.		

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

W. G. Ranadive, Secretary (Revenue)

Panaji, 23rd December, 1967.

Local Self Government Department

Notification

DF-894-FOR-67

In exercise of the powers conferred by Section 18 of the Wild Animals and Wild Birds Protection Act 1965 and in pursuance of Section 19 of the said Act, the Administrator of Goa, Daman and Diu hereby notifies the following area comprising of the Reserve Forest of Collem Range falling within the village limits of Bottor, Toldem, Darguem, Tambdi, Borial, Surla, Atconda, Anvaldem, Nondrona, Molem, Caranzol, Sonaulim, Dudhasagar, Oxel, Boma, Dongurlim, Dudhal, Calem, Maulinguem, Zuna, Darguem, Cormonem, Oldevam, Shiggaon, Bolcornem, Godanem and delimited by the boundaries mentioned below, as a Game Sanctuary:

BOUNDARIES

North: Taluka boundary of Sanguem.

East: State boundary of Union territory of Goa.

South: Village boundaries of Darguem and Zuna villages.

West: Katcha road leading from Malpon to Collem village boundary and further along the perennial nala (river) upto Oldevan, and from there to the South along the katcha road which leads to Kaley Railway Station. From Kaley Railway Station along the road which leads to Darguem village boundary.

and further directs that the Collector Goa shall inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over the land comprised within the limits of the aforesaid area and deal with the same as provided in the said Act.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. P. Upasani, Secretary to Chief Minister.

Panjim, 28th December, 1967.

GOVT. PRINTING PRESS — GOA
(Imprensa Nacional — Goa)
PRICE — 80 Ps.

42

(Typed copy on page 44,45)

REGD. GOA-8

Panaji, 27th September, 1982 (Asvina 5, 1904) SERIES I No. 26

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA, DAMAN AND DIU

Forest and Agriculture Department

—

Notification

8-12-82-FOR

Whereas the area specified in the Schedule annexed hereto (hereinafter called the 'said area') has been declared as a Game Sanctuary under section 18 of the Wild Animals and Wild Birds Protection Act 1965 (21 of 1965) under the Local Self Government Department's Notification No. DF-894-FOR-67 dated 20-12-1967.

And whereas, the Government considers that the said area is of ecological, faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life and its environment.

Now, therefore, the Administrator of Goa, Daman and Diu, in exercise of the powers conferred by sub-section (1) of section 18 of the Wild Life (Protection) Act 1972 (Central Act 53 of 1972) hereby also declares the said area to be a sanctuary for the purposes of the said Act.

SCHEDULE

The areas comprising of the Forests of Collem Range falling within the village limits of Bootor, Toldem, Darguem, Tambdi, Borial, Surla, Atconda, Anvaldem, Nondrona, Molem Caranzol, Sonaulim, Dudsagar, Oxel, Boma, Dongurlim, Duchel, Calem, Maulinguem, Zona, Darguem, Cormonem, Oldovem, Shiggaon, Bolcornem, Godanem and delimited by the boundaries mentioned below.

Boundaries:

North: Taluka boundary of Sanguem.

East: State Boundary of Union Territory of Goa.

South: Village boundaries of Darguem and Zona villages.

West: Katcha road leading from Nalpom to Collem Village boundary and further along the perennial nala (River) upto Oldeval, and from there to the South along the katcha road which leads to Kalay railway station. From Kalay railway station along to the road which leads to Darguem village boundary.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 27th September, 1982.

GOVERNMENT OF GOA, DAMAN AND DIU

Forest and Agriculture Department

Notification

8-12-82-FOR

Whereas the area specified in the Schedule annexed hereto (herein after called the 'said area') has been declared as a Game Sanctuary under section 18 of the Wild Animals and Wild Birds Protection Act 1965 (21 of 1965) under the Local Self Government Departments Notification No. D-894-FOR-67 dated 20-12-1967.

And whereas, the Government considers that the said area is of ecological, faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life and its environment.

Now, therefore, the Administrator of Goa, Daman and Deu, in exercise of the powers conferred by sub-section(1) of section 18 of the Wild Life (Projection) Act, 1972 (Central Act 53 of 1972) hereby also declares the said area to be a sanctuary for the purposes of the said act.

The areas comprising of the Forest of Collem Range falling within the village limits of Bootor, Toldem, Darguem, Tambdi, Borial, Surla, Atconda, Anvaldem, Nondrona, Molem Caransol, Sonaulim, Dudsagar, Oxel, Boma, Dongurlim, Duchel, Calem, Maulinguem, Zona, Darguem, Cormonem, Oldovem, Shiggaon, Bolcornem, Godanem and delimited by the boundaries mentioned below.

Boundaries:

North: Taluak boundary of Sanguem.

East: State Boundary of Union Territory of Goa.

South: Village boundaries of Darguem and Zona Villages.

West: Katcha road leading from Nalpom to Collem Village boundary and further along the perennial nala (River) upto Oldeval, and from there to the South along the katcha road which leads to Kalay railway Station. From Kalay Railway Station along to the road which leads to Darguem village boundary.

By order and in the name of the Administrator of Goa, Daman and Diu.

Panaji, 27th September, 1982.

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(Typed copy on pg. 49, 50)

REGD. GOA-5

Panaji, 5th April, 1984 (Chaitra 16, 1906) SERIES I No. 1

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Forest and Agriculture Department

Notification

8-12-82-For

The Wild Life Sanctuary which is popularly known as "Molem Wild Life Sanctuary" and constituted by Government Notification No. 8-12-82-FOR, dated 27-9-82, published in the Official Gazette, No. 26, Series I, dated 27-9-1982 is hereby named as "Bhagwan Mahavir Wild Life Sanctuary".

By order and in the name of the Administrator of Goa, Daman and Diu.

S. M. Naik, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 14th March, 1984.

Notification

8-12-82-FOR

In exercise of the powers conferred by Section 18 of the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972), the Administrator of Goa, Daman and Diu hereby amends the Government Notification no. 8-12-82-For dated 27-9-1982, published in the Official Gazette Series I, No. 26, dated 27-9-1982 (hereinafter called the "principal Notification") as follows, namely: —

For the Schedule appended to the principal Notification, the following Schedule shall be substituted, namely:—

SCHEDULE

The areas of Sanguem taluka falling partially or wholly within the village limits of Aglote, Boma, Calem, Caranzol, Colem, Carmonem, Dongurlim, Dudal, Maulinguem, Molem, Oxel, Patiem, Surla, Sancordem, Sigao and Sonaulim and delimited by the boundaries mentioned below:

Boundaries in the clockwise directions:

Starting from a point, which is the intersection of Sanguem-Satari Taluka boundary and Malpona Bolcornem-Molem road.

North: Along the taluka boundary between Satari and Sanguem upto the interstate boundary between the district of Goa and Karnataka State.

East: Thence along the interstate boundary of district of Goa and Karnataka State upto its intersection with the southern boundary of the Patiem Village.

South: Thence along the southern boundary of Patiem village upto its intersection with the road leading from Tudou to Data of Sangod village through Dudal, Calem and Carmonem.

West: Thence along the road leading from Tudou to Data of Sangod through the villages Dudal, Calem and Carmonem upto the river Candeapar (Dudhsagar). Further along upstream of the same river upto its intersection (Bridge) with the road leading from

Colem to Molem. Further along the road leading from Colem to Malpona through Molem upto the starting point of the northern boundary.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. M. Naik, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 14th March, 1984.

Corrigendum

8-12-82-FOR

In the Government Notification No. 8-12-82-FOR dated 27-9-1982, published in the Official Gazette, Series I, No. 26, dated 27-9-1982, for the figures "20-12-1967" occurring in the recital thereof, read "28-12-1967".

By order and in the name of the Administrator of Goa, Daman and Diu.

S. M. Naik, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 14th March, 1984.

GOVERNMENT OF GOA, DAMAN AND DIU

Forest and Agriculture Department

Notification

8-12-82-FOR

The Wild Life Sanctuary which is popularly known as Molem Wild Life Sanctuary and constituted by Government Notification No. 8-12-82-FOR, dated 27-9-82, published in the Official Gazette, No. 26, Series I, dated 27-9-1982 is hereby named as "Bhagwan Mahavir Wild Life Sanctuary".

In exercise of the powers conferred by Section ___ of the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972), the Administrator of Goa, Daman and Diu hereby amends the Government Notification no. 8-12-82-For dated 27-09-1982, published in the official Gazette Series I, No. 26, dated 27-9-1982 (herein after called the "principal Notification") as follow namely:-

For the Schedule appended to the principal Notification, the following Schedule shall be substituted, namely:-

SHEDULE

The areas of Sanguem Taluka falling partially or wholly within the village limits of Aglote, Boma, Calem, Caranzol, Colem, Carmonem, Dongurlim, Dudal, Maulinguemm, Molem, Oxel, Patiem, Surla, Sancordem, Sigao and Sonaulim and delimited by the boundaries mentioned below:

Boundaries in the clockwise directions:

Starting from a point, which is the intersection of Sanguem Satari Taluka boundary and Malpona Bolcornem MOlem road.

North: Along the Taluka boundary between Satari and Sanguem upto the interstate boundary between the district of Goa and Karnataka State.

East: Thence along the interstate oundary of district of Goa and Karnataka State upto its intersection with the southern boundary of the Patiem Village.

South: Thence along the Southern boundary of Patiem village upto its intersection with the road leading from Tudo upto Data of Sangod village through Dudal, Calem and Carmonem.

West: Thence along the road leading from Tudou to Data of Sangod through the villages Dudal, Calem and Carmonem upto the river Candeapar (Dudhsagar). Further along upstream of the same river upto its intersection (Bridge) with the road leading from Colem to Molem, Further along the road leading from Colem to Malpona through Molem upto the starting point of the northern boundary.

By order and in the name of the Administrator of Goa, Daman and Diu.

Panaji, 14th March, 1984.

(Typed copy on pg. 52, 53)

BHAGWAN MAHAVEER WILDLIFE SANCTUARY

Noulication under Section 18 of Wild animals and Wild Birds Protection Act [illegible] Sr. 1 dated 4/1/1968. Renotified as per Section 18 Wildlife (Protection) Act, [illegible] Gazette No. 26 Sr. 1 dated 27/9/1982.

Sr. No	Village	Survey Nos.	Name of Forest	STATUS Sec 4 Gazette No. & date	Sec 20 [illegible]
1	Aglote	20	Aglote-I(pt)	42,III 14/2/91	
2	Boma	1,2,3,4	Boma	46, III 14/1/8[illegible]	
3	Caranzol	1 to 23	Caranzol	39, III [illegible]	
4	Calem	[redacted] 49, 54,	Calay-Dongor, Bindemolla or Oldvem Dongor		
		[redacted] 7, 8pt, 22,24 to 40, [redacted] to 45, 47, 48, 50 to [redacted] 55 to 112, 134 pt [redacted] 135, 136 pt 138 to 150, 153 to 164.	-		
5	Colem	38, 60 to 65, 68 to 71, 73, 74	-	-	
6	Dongurli	3,4,5,9, 13,14,16,19	Dongurli	39, III 24/12/98	
		1,2,6,7,8,10,11, 12,15,17,18,20	-	-	
7	Dudal	22	Dudal-I(pt)	25, III 16/9[illegible]	
		31,32,33	Dudal II	24 III [illegible]	
		23, to 30, 34, 35	-		
8	Molem	51, 52, 53, 54 to 60	Molem-IV (pt)	35, [illegible]	
9	Oxel	1 to 10	Oxel	15 [illegible]	
10	Surla	63	Surla-I(pt)	29 [illegible]	
		21, 22,23, 38,73	Surla-(pt)	34, III [illegible]	
11	Sigao	112,113	-		
12	Sonaulim	1 to 21	Sonaulim	50 III [illegible] Supp.	
13	Cormonem	9 pt, 10, 11 pt, 14, pt, 15 pt, 16, 17, 18, 19 pt,24 pt, 25 pt, 26, 27, 28 pt, 29 pt.	-	-	

[illegible] MAULINGUEM 1, 2, 9 to 30 — Maulinguem I, Maulinguem II

[illegible] UGELEM 47. — -

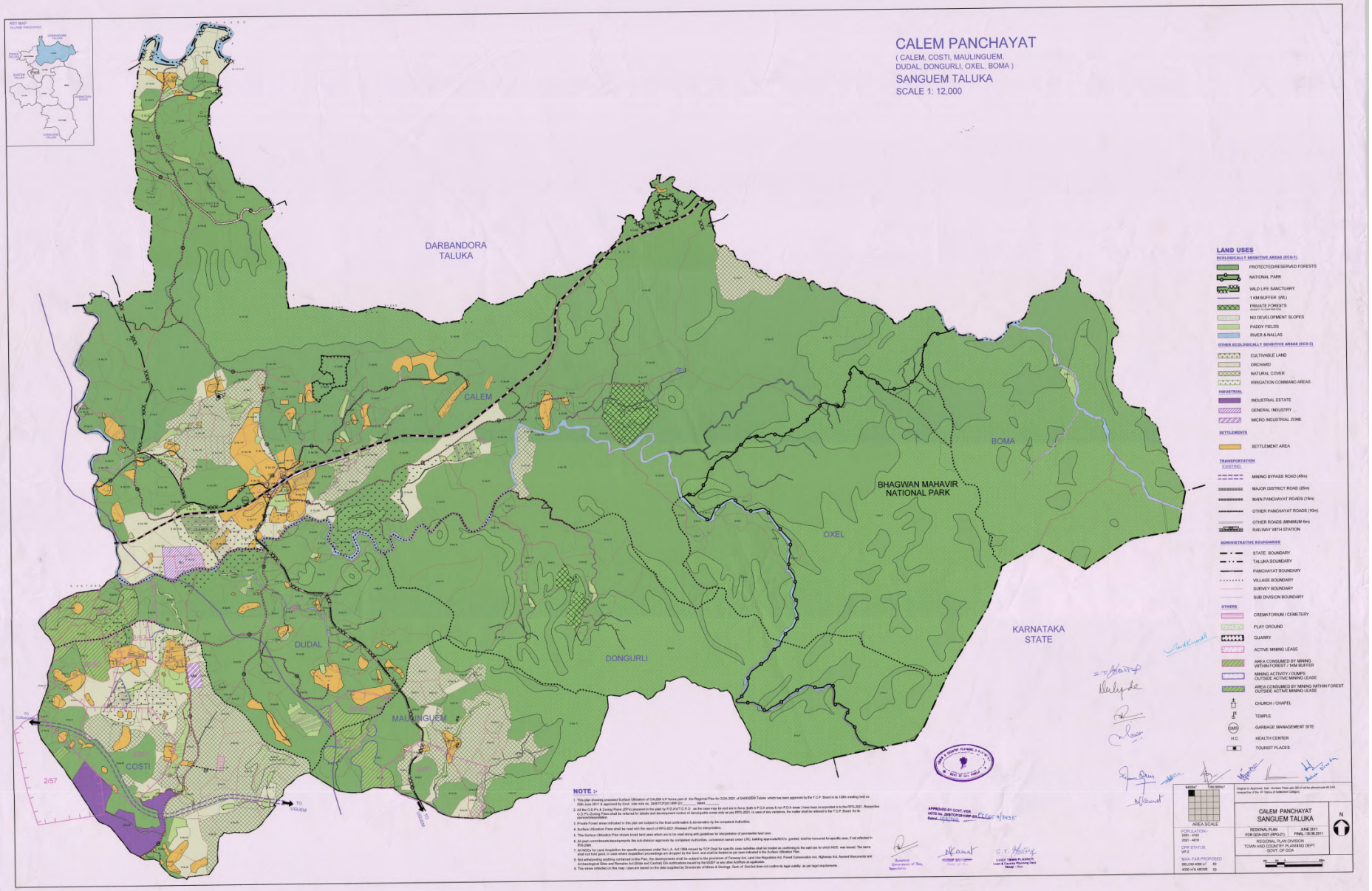
BHAGWAN MAHAVEER WILDLIFE SANCTUARY

Notification under Section 18 of Wild Animals and Wild Birds Protection Act, 1965---Sr. 1 dated 4/1/1968. Renotified as per Section 18 Wildlife (Protection) Act, 1972 --- Gazette No. 26 Sr. 1 dated 27/9/1982.

Sr. No.	Village	Survey Nos.	Name of Forest	Sec 4 Gazette No. & date	Sec 20 ---	---
1	Aglote	20	Aglote-I (pt)	42, III 14/2/91	---	---
2	Boma	1, 2, 3, 4	Boma	46, III 14/1/80	---	---
3	Caranzol	1 to 23	Caranzol	39, III ---	---	---
4	Calem	19,20 pt 21, 23, 41, 46, 49, 54	Calay-Dongor, Bindemolla or Oldvem Dongor			
		1 to 7, 8 pt, 22, 24 to 40, 42 to 45, 47, 48, 50 to 53, 55 to 112, 134 pt 135, 136 pt 138 to 150, 153 to 164				
5	Colem	38, 60 to 65, 68 to 71, 73, 74	-	-		
6	Dongurli	3, 4, 5, 9, 13, 14, 16, 19	Dongurli	39, III 24/12/98	---	---
		1, 2, 6, 7, 8, 10, 11, 12, 15, 17, 18, 20				
7	Dudal	22	Dudal-I (pt)	25, III 16/9---	---	---
		31, 32, 33	Dudal II	24, III ---	---	---
		23 to 30, 34, 35				
8	Molem	51, 52, 53, 54 to 60	Molem-IV (pt)	35 ---	---	---

9	Oxel	1 to 10	Oxel	15 ---	---	---
10	Surla	63	Surla-I (pt)	29---	---	---
		21, 22, 23, 38, 73	Surla- (pt)	34, III---	---	---
11	Sigao	112, 113	-	-	-	-
12	Sonaulim	1 to 21	Sonaulim	50, III ---	---	---
13	Cormonem	9 pt, 10, 11 pt, 14, pt, 15 pt, 16, 17, 18, 10 pt, 24 pt, 25 pt, 26, 27, 28 pt, 29 pt	-	-	-	-

ANNEXURE 3


CALEM PANCHAYAT
(CALEM, COSTI, MAULINGUEM,
DUDAL, DONGURLI, OXEL, BOMA)
SANGUEM TALUKA
SCALE 1: 12,000
DARBANDORA TALUKA
CALEM
BOMA
BHAGWAN MAHAVIR NATIONAL PARK
OXEL
DUDAL
DONGURLI
MAULINGUEM
COSTI
KARNATAKA STATE
LAND USES
PROTECTED/RESERVED FORESTS
NATIONAL PARK
WILD LIFE SANCTUARY
1 KM BUFFER (WL)
PRIVATE FORESTS
NO DEVELOPMENT SLOPES
PADDY FIELDS
RIVER & NALLAS
CULTIVABLE LAND
ORCHARD
NATURAL COVER
IRRIGATION COMMAND AREAS
INDUSTRIAL ESTATE
GENERAL INDUSTRY
MICRO INDUSTRIAL ZONE
SETTLEMENT AREA
MINING BYPASS ROAD (45m)
MAJOR DISTRICT ROAD (25m)
MAIN PANCHAYAT ROADS (15m)
OTHER PANCHAYAT ROADS (10m)
OTHER ROADS (MINIMUM 6m)
RAILWAY WITH STATION
STATE BOUNDARY
TALUKA BOUNDARY
PANCHAYAT BOUNDARY
VILLAGE BOUNDARY
SURVEY BOUNDARY
SUB DIVISION BOUNDARY
CREMATORIUM / CEMETERY
PLAY GROUND
QUARRY
ACTIVE MINING LEASE
CHURCH / CHAPEL
TEMPLE
GARBAGE MANAGEMENT SITE
HEALTH CENTER
TOURIST PLACES
NOTE :-
CALEM PANCHAYAT
SANGUEM TALUKA
REGIONAL PLAN FOR GOA-2021 (RPG-21)
JUNE 2011
FINAL / 30.06.2011
REGIONAL PLAN DIVISION
TOWN AND COUNTRY PLANNING DEPT.
GOVT. OF GOA

ANNEXURE 4

CHAPTER 12

SUPREME COURT ORDERS IN CENTRE FOR ENVIRONMENTAL LAW WWF – INDIA

Centre for Environmental Law WWF – India

v.

Union of India and Others

S.C. AGARWAL AND G.T. NANAVATI, JJ.

I.A. No. 2 in W.P.(C) No. 337/95

Decided on 22-08-1997

Wild Life Protection Act – Appointment of Honorary Wild Life Wardens – Directions issued.

Wild Life Protection Act – Section 21 – All State Govts. Directed to issue proclamation within two months – Complete the process of determination of rights within one year.

Wild Life Protection Act – Section 26A – Denotification of Sanctuaries – All State Governments ordered that before placing the proposal for denotification before the legislature – To refer the proposal the Indian Board of Wild Life for its opinion.

Wild Life Protection Act – Direction to all Governments to ensure that forest guards are provided with modern arms, equipment etc.

ORDER

1. In the order July 7, 1997 it was observed that some of the States had not filed affidavits in pursuance of the order dated March 25, 1997. By the said order four weeks time was granted to the concerned States to file the affidavits and it was also indicated that in the event of failure to do so, contempt proceedings will have to initiated against them. So far affidavits have not been filed on behalf of the State of Assam, Andhra Pradesh, Bihar, Goa, Jammu and Kashmir, Kerala, Manipur and Nagaland and Union Territory of Andaman and Nicobar Islands.

The learned counsel appearing for the State of Assam states that he will be filling the affidavit during the course of the day. He is permitted to do so. Since affidavits have not been filed on behalf of the other States referred to above, it is directed that contempt notices be issued to the respective Chief Secretaries of concerned States/Union Territory. Their personal presence is not necessary for the present.

2. A perusal of the affidavits that have been filed on behalf of the States and Union Territories shows that in some of the States Wild Life Advisory Boards have either not been constituted or were constituted earlier and after the expiry of the term of the Board, that was constituted, there has been no reconstitution of the Board. In the States in which Wild Life Advisory Board has not been constituted or where the Board had earlier been constituted but the term has expired and the Board has not been reconstituted, necessary steps should be taken to constitute/reconstitute the Wild Life Advisory Board within a period of two months.

3. As regards the appointment of Wild Life Wardens, we find that in some States Wild Life Wardens have not been appointed at all while in some States Wild Life Wardens have been appointed for some areas but have not been appointed for other areas. It is directed that the concerned State/Union Territory shall take the necessary steps to appoint Wild Life Wardens for all the areas within a period of two months.

4. Even though notification in respect of sanctuaries/national parks have been issued under Section 18/35 in all States/Union Territories, further proceedings as required under the Act *i.e.* issue of proclamation under Section 21 and other steps as contemplated by the Act have not been taken. The concerned State Governments/Union Territories are directed to issue the proclamation under Section 21 in respect of the sanctuaries/national parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year.

5. As regards denotification of any area which is included in a sanctuary/ national park, it is directed that before placing the proposal before the Legislative Assembly the concerned State Governments shall refer the proposal to the Indian Board for Wild Life for its opinion and the proposal shall be placed for consideration before the Legislative Assembly along with the opinion of the Indian Board for Wild Life.

6. In order to effectively control the growing increase of poaching in the sanctuaries/national parks the Central Government as well as the Governments of States/Union Territories are directed to ensure that the forest guards in the sanctuaries/national parks are provided modern arms, communication facilities, *viz.*, wireless sets and other necessary equipment in that regard. Necessary steps for that purpose shall be taken within six months.

List on 17-10-1997 for final disposal.

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2023 SCC OnLine Bom 1495

In the High Court of Bombay at Goa

(BEFORE M.S. SONAK AND BHARAT P. DESHPANDE, JJ.)

Goa Foundation, through its Secretary, Dr. Claude Alvares … Petitioner;

Versus

State of Goa, Through its Chief Secretary and Others … Respondents.

Pil Writ Petition No. 15/2022

Decided on July 24, 2023, [Reserved on : 10th July 2023]

Advocates who appeared in this case:

Ms. Norma Alvares with Mr. Om D' Costa, Advocates for the Petitioner.

Mr. D. Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for the Respondents 1 to 4 (State).

Mr. R. Chodankar, Central Govt. Standing Counsel for Respondents No. 5 and 6.

The Judgment of the Court was delivered by

M.S. SONAK, J.:—

निर्वनो वध्यते व्याघ्रो निर्व्याघ्रं छिद्यते वनम्।
तस्माद्व्याघ्रो वनं रक्षेद्वयं व्याघ्रं च पालयेत् ॥
-महाभारत - उद्योग पर्व : ५.२९.५७

If there is no forest, then the tiger gets killed;

if there is no tiger, then the forest gets destroyed.

Hence, the tiger protects the forest and the forest guards the tiger!

-*Mahabharat* (Kumbhaghonam Edition) - Udyoga Parva : 5.29.57
(NTCA Report on Status of Tigers - 2022)

1. The International Union for Conservation of Nature (IUCN) estimates that 3726 to 5578 tigers live in the wild worldwide. Out of these, the tiger population in India, as per the 2023 Tiger Census, is estimated at 3167. In 1947, at the time of independence of India, the estimate in India was 40,000 tigers. Therefore, in less than *76* years, the tiger population has decreased by almost 92%. The Tigers are still considered endangered and remain on IUCNs red list, assessing the endangered species status. About 2000 tigers (65%) are estimated to exist within the notified tiger reserves in India. Thus, about 1167 tigers (35 %) are outside India's declared 54 tiger reserves. The exhaustive

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studies undertaken or commissioned by the Central Ministry of Environment and Forest indicate the need for better-protected tiger source sites, especially tiger reserves, to maintain viable populations. The studies note that the area occupied by tigers outside protected areas has decreased considerably. This demonstrates the need to protect the Tiger Corridors to facilitate the movement of tigers between source sites. (See *Jhala Y., Gopal R., Mathur* v. *Ghosh P., Negi H.S., Narain S.*, et al. (2021), Recovery of tigers in India : Critical introspection and **potential lessons, People and Nature.)**

2. The Status of Tigers (Co-predators & Prey) in India, 2014 reports that the Cotigao-Mhadei Mhadei forest complex of Goa comprises five protected areas, namely, Mhadei Wildlife Sanctuary (208 km), Bhagwan Mahavir Wild Life Sanctuary (133 km^2), Bhagwan Mahavir National Park (107 km^2), Netravali Wildlife Sanctuary (211 km^2) and Cotigao Wildlife Sanctuary (86 km^2) along the Western Ghats ridge. They cover an area of about 750 km^2, forming a contiguous belt of forest connecting the forests of Karnataka and Maharashtra. To the south of Mhadei is the Bhagwan Mahavir Wildlife Sanctuary and Bhagwan Mahavir National Park. The Netravali Wildlife Sanctuary lies between the Bhagwan Mahavir National Park on the north and the Cotigao Wildlife Sanctuary to its south. This region typically contains evergreen, semi-evergreen and moist deciduous forest types. The evergreen forests are mainly seen at higher altitudes and along the river banks. **This report records that Goa has a persistent tiger presence with about three to** five **tigers.** (*See Cotigao-Mhadei Forest Complex of Goa - K. Ulhas Karanth, N. Samba Kumar, Ravishankar Parameshwaran, Arjun Srivathsa, Sushma Sharma, Wildlife Conservation Society - India and Centre for Wildlife Studies).*

3. This petition, instituted in the public interest, seeks directions to the respondents to notify Mhadei Wild Life Sanctuary and other areas as a *"tiger reserve"* under Chapter IV-B of the Wild Life (Protection) Act, 1972 (WLPA). In any case, the petitioner seeks directions from the respondents to take steps towards notifying Mhadei Wild Life Sanctuary (Mhadei WLS) and other areas as a *"tiger reserve"* under Chapter IV-B of the (WLPA). In addition, the petitioner seeks an order directing respondent no. 4 to set up Anti-Poaching Camps (APC) at strategic locations in the wildlife sanctuaries and national park of Goa to be staffed by Forest Guards/Watchers around the clock to control instances of poaching effectively.

4. A map showing the location of Mhadei WLS in the western ghats landscape with the adjoining forests in Karnataka and Maharashtra is printed below for the convenience of reference. The map depicts "tiger corridors" critical for the tiger's survival in the western ghats.

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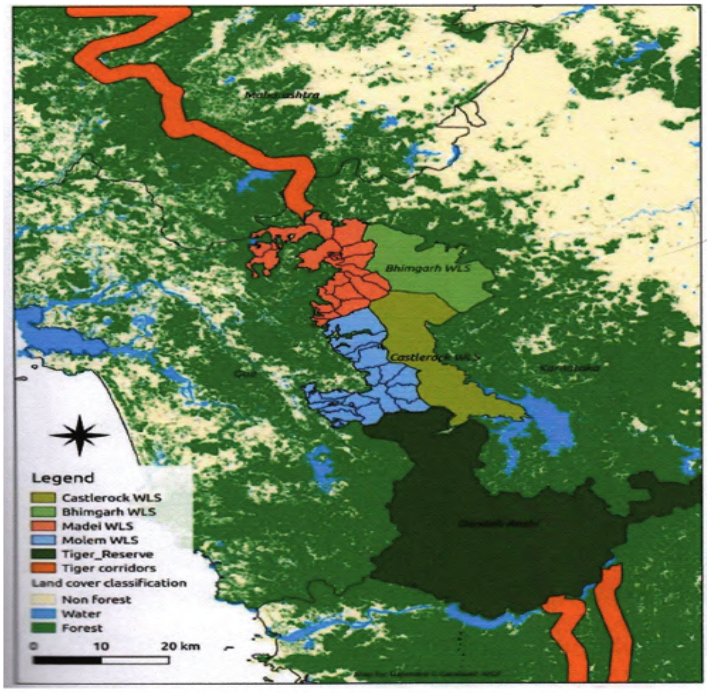

(From page 3 of NTCA's REPORT ON "TIGER DEATHS IN MHADEI WILDLIFE SANCTUARY, GOA")

5. Beginning in 2011, the Central Government and the National Tiger Conservation Authority (NTCA) have repeatedly pursued the issue of the State of Goa (State) notifying Mhadei WLS and certain other contiguous areas as a tiger reserve. In January 2020, the petitioner and other environmentalists also pursued this issue after a tigress and her three cubs died from poisoning in the Mhadei WLS. However, since the State has refused to budge, the petitioner has instituted the present petition seeking the above reliefs in the public interest.

6. Ms. Alvares, learned counsel for the petitioner, submits that there was no justification for the State to ignore with impunity the Union Environment Ministers letter dated 28.06.2011 regards notifying Mhadei WLS and other contiguous areas as a tiger reserve. She submits that, in any case, NTCAs repeated recommendations starting from the communication dated 31.03.2016, were binding on the State Government under Section 38-V (1) of the WLPA. She submits that there was a breach of statutory duty on the part of the State Government in not notifying the tiger reserve despite repeated recommendations from the NTCA.

7. Ms. Alvares submitted that the State forest authorities, with experts' aid, have already prepared proposals and plans for notifying

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the tiger reserve. However, the State Board for Wildlife stalled such a proposal at least twice. She pointed out that four tigers died from poisoning in the Mhadei WLS due to such stalling. She pointed out that the expert committee appointed by the NTCA has reported on the mismanagement of protected areas in Goa. NTCA warned that further delay in notifying the tiger reserve and implementing a robust protection regime might lead to Goa becoming a **"death trap for the tigers"** dispersing in the western ghats landscape.

8. Ms. Alvares submitted that the provisions of Section 38-V (1) of the WLPA were mandatory, and the State could not refuse or unreasonably delay notifying a tiger reserve after NTCA recommendations. She referred to the Central Empowered Committees report and the Hon'ble Supreme Courts order in 77 *N. Godavarman Thirumulpad* v. *Union of India*[1]. She referred us to the guidelines issued by the NTCA on 15.10.2012 under Section 38-O of the WLPA. She also referred us to expert reports and other scientific literature. She referred to the legal provisions of WLPA and circulars issued by the NTCA on the subject. She pointed out how the delay was impairing the cause of tiger conservation in the Goa and the Western Ghats landscape. Based on all this, Ms. Alvares urged that the Rule in this petition may be made absolute by issuing time-bound directions to the State and the NTCA.

9. Mr. Raviraj Chodankar, learned counsel for the NTCA and the Ministry of Environment, Forest & Climate Change, submitted that the NTCA had not only made *recommendations* vide communication dated 31.03.2016 read with the *Office* Memorandum dated 04.02.2020 and communication dated 29.09.2022 but further, that such communications spell out a *direction* as contemplated by Section 38-O of the WLPA. Based upon instructions he received, Mr. Chodankar thus categorically submitted that the NTCA's communications to the State constituted not only the recommendations as contemplated by Section 38-V but also directions as contemplated by Section 38-O (2) of the WLPA.

10. Mr. Chodankar submitted that directions under Section 38-O (2) are binding upon the State. Similarly, he presented that even the recommendation of the NTCA binds the State because Section 38-V (1) provides that the State Government *"shall'*, on the recommendation of the NTCA, notify an area as a tiger reserve. Mr. Chodankar, therefore, supported the petitioner and submitted that the State must not delay the notification of the area as a tiger reserve and the dispatch of the proposal to enable the NTCA to take further steps in the matter.

11. Mr. D. Pangam learned AG clarified that the State was not opposed to notifying the area as a tiger reserve. However, he submitted that the time was not right to make such a declaration, issue such a notification, or even forward any proposal to the NTCA. He pointed out

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that the State, in its affidavit, had nowhere stated that it did not wish to send a proposal to the NTCA or to notify the area as a tiger reserve. However, he pointed out that further studies were necessary, and the rights of the forest dwellers also needed to be settled entirely before such steps could be taken.

12. Mr. Pangam submitted that, to date, the final declaration as contemplated by Section 26-A of the WLPA had not been issued in respect of five out of the six wildlife sanctuaries/national park in the State. He pointed out that the final notification under Section 26-A was issued only regarding Cotigao Wild Life Sanctuary and not others. He submitted that unless such final notifications/declarations under Section 26-A are issued, taking further steps to notify the said area as a tiger reserve would not be appropriate.

13. Mr. Pangam submitted that the communications relied upon by the petitioner or referred to by Mr. Chodankar were neither *"directions'* nor *"recommendations"* as contemplated under the WLPA. He submitted that the communications contained only *"suggestions or advice?* He offered that even otherwise, the provisions of Section 38-V (1) were only directory and not mandatory. He submitted that the mere use of the expression *"shall"* in Section 38-V (1) was insufficient to construe this provision as mandatory and not directory. He submitted that the Legislature had not provided for the consequences of a State Government rejecting NTCAs recommendation. Therefore, the provisions of Section 38-V (1) must be construed as directory and not mandatory. He relied on *State of UP* v. *Manbodhan Lal Srivastava*[2] *Kailash* v. *Nanhku*[3] and *B.P. Khemka Pvt. Ltd.* v. *Birendra Kumar Bhowmick*[4] to support his contention that the provisions of Section 38-V (1) were not mandatory but were only directory.

14. Mr. Pangam submitted that none of the communications issued by the NTCA were shown to be backed by any resolutions of the NTCA. He handed in a bunch of NTCA minutes to submit that in none of the minutes except perhaps the minutes of 05.01.2022, was there any discussion on the issue declaring Mhadei WLS or other areas in Goa as a tiger reserve. He relied on the minutes and the NTCA Guidelines, 2012, to submit that the notification of a tiger reserve involves three stages, i.e. (i)Advise/Suggestion; (ii) In-principle approval (having effect of recommendation); and (iii) final approval (for the management plan proposed for the tiger reserve notified under Section 38-V). He submitted that the NTCA could not insist upon the State notifying a tiger reserve unless this procedure was followed. He submitted that the present petition was premature and must be dismissed.

15. Mr. Pangam submitted that the State, in the past, experienced the unfortunate incident of revenge killing of four tigers. He pointed out

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that some of the forest settlers poisoned four tigers because their cattle were killed by one of the tigers. He submits that until and unless the rights of the forest dwellers are fully settled and notification, as contemplated by Section 26-A of the WLPA, was issued, it would not be appropriate to notify any area in Goa as a tiger reserve.

16. Mr. Pangam finally submitted that the protected areas under the WLPA enjoy the same level of protection for all flora and fauna as in a tiger reserve. He offered that no additional protection was necessary for the tiger because all wild animals deserved equal protection. He presents that the State, considering the death of four tigers, had taken additional measures to safeguard all wildlife. He, therefore, submitted that there was no prejudice due to the non-declaration of any area as a tiger reserve. He urged this as an additional reason to dismiss this petition.

17. For all the above reasons, Mr. Pangam submitted that this petition may be dismissed.

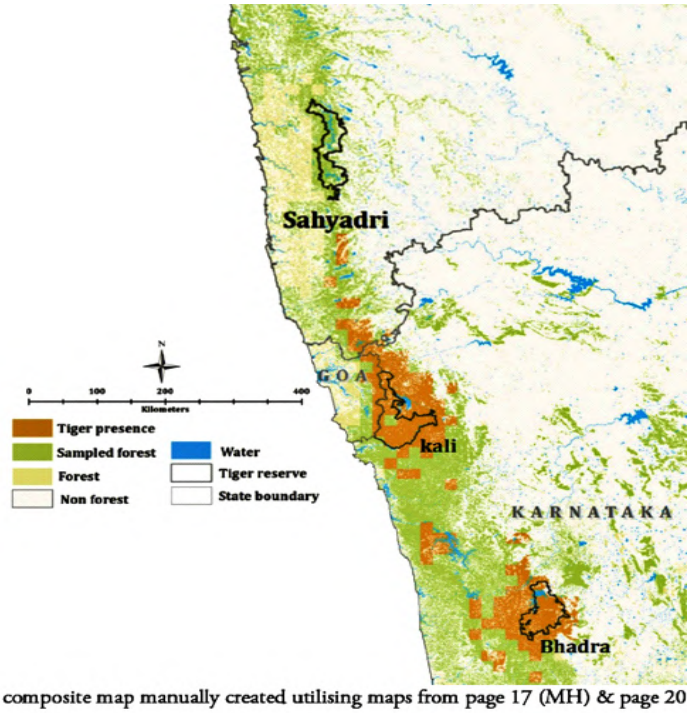
18. The rival contentions now fall for our determination.

19. The World Wildlife Fund (WWF) - India describes the tiger as a unique animal which plays a pivotal role in the health and diversity of an ecosystem. It is a top predator at the apex of the food chain. Therefore, the presence of tigers in the forest is an indicator of the well-being of the ecosystem. Protection of tigers in forests protects the habitats of several other species. Indirect benefits of preserving a tiger include several ecosystem services like protection of rivers and other water sources, prevention of soil erosion and improvement of ecological services like pollination, water table retention etc. Conversely, the absence of this top predator indicates that its ecosystem is not sufficiently protected. Tigers are variously described as Keystone species, Flagship species, Indicator Species or Umbrella species.

20. A keystone species helps define an entire ecosystem. Without keystone species, the ecosystems would be dramatically different or cease to exist altogether. A flagship species acts as a symbol for an environmental habitat, movement, campaign or issue. They can be mascots for entire ecosystems. An indicator species is susceptible to environmental changes in an ecosystem. The NTCA Guidelines, 2012 describe the tiger as an Umbrella species because the tiger ensures viable populations of other wild animals (co-predators, prey) and forest, thereby ensuring ecological viability of the entire area or habitat. Thus, it becomes an ecological imperative to keep the core areas of tiger reserves inviolate for the survival of source populations of tigers and other wild animals.

21. The research and scientific reports produced by several Government and non-Government agencies establish the presence of the tiger in the protected areas in Goa. The NTCA maps indicating tiger

presence not only within the boundaries of Goa but in the contiguous regions of the neighbouring States of Karnataka and Maharashtra are shown below for the convenience of reference:—



(A composite map manually created utilising maps from page 17 (MH) & page 20 (Goa & Karnataka) from the report of NTCA on Status of Tigers 2022)

22. The above map, together with the map in paragraph 4, depict how the Mhadei WLS and other contiguous areas constitute a tiger corridor for the movement of the tigers in the Western Ghats landscape. The NTCA Guidelines, 2012, explain the value of tiger corridors in Clause 7.4. This clause records that isolated populations of wild animals face the risk of extinction owing to insularisation. Habitat fragmentation adversely affects wildlife due to decreased opportunities for movement, interbreeding, etc. The Guidelines record that tiger corridors become crucial for maintaining the viability of tiger populations.

23. (*Sanderson et al., 2006, 2010; Wikramanayake et al., 2010)* report that to conserve a large, wide-ranging carnivore like the tiger; it is critical not only to maintain populations but also to enable the persistence of the species across much larger landscapes. To do this, it is essential to establish well-linked habitat networks where opportunities for dispersal and colonisation complement sites for the survival and reproduction of tigers. Among the critical global tiger

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conservation strategies are landscape-based approaches to sustain existing populations and attain recovery goals.

24. *Gubbi, Sanjay & Harish, N & Kolekar, Aparna & Poornesha, Heruru & Reddy, Vasanth & Mumtaz, Javeed & Madhusudan, M. (2017)* report that Landscape-based approaches emphasise habitat connectivity as a means of enhancing gene flow, providing opportunity for dispersal, thereby increasing the persistence of populations, reducing the risk of inbreeding depression and local extinction, and finally, avoiding costly interventions such as translocation. The landscape-based approach has two key ingredients : first, it involves the identification of key source populations, and second, it involves the consolidation and improvement of potential tiger habitat in and around these sites, as well as an enhancement of habitat connectivity within the larger landscape.

25. *Gubbi et al., (Providing more protected space for tigers Panthera tigris : A landscape conservation approach in the Western Ghats, southern India. (Oryx. 50.10.1017/S0030605314000751) 2016); Chapron et al., 2008; Rathore et al., 2012; Mondol et al., 2013; Sharma et al., 2013* report that the protected areas are a mainstay of tiger conservation but often lack connectivity which is critical to ensuring both genetically and demographically viable populations. Enhancing the protected area network would provide protected space for more breeding tigresses and preserve landscape corridors, facilitating multidirectional connections for this far-ranging species. *Goodrich et al., 2015* reported that one of the solutions for ensuring viable tiger populations is to recover populations in a few core areas and link them through tiger-compatible landscapes. *Wikramanayake et al., 2004; Walston et al., 2010; Jhala et al., 2011* report that maintaining forest connectivity between tiger populations and adding new regions where existing populations can expand is vital for long-term persistence.

26. Thus, the tiger corridors are vital for the survival of the tiger. A tiger corridor is generally described as a stretch linking tiger habitats, allowing tigers, prey and other wildlife to move. Without corridors, tiger habitat can become fragmented, and tiger populations isolated, leaving the tiger vulnerable to localised extinction. The consensus amongst researchers is that such tiger corridors not only ensure the free movement of tigers but the free intermixing of tiger populations, thereby strengthening the species' genetic health by preventing inbreeding caused by the fragmentation of habitats. The tiger corridors avoid the overcrowding of the protected areas by accommodating a growing population of cubs and tigers and allowing them to move away from the territory that adult tigers have already claimed; they also aid the survival of ageing tigers which naturally move outwards to avoid

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conflict with younger males.

27. Conscious of the importance of the Mhadei WLS and the tiger corridor that it provides, as early as 28.06.2011, Shri Jairam Ramesh, the Hon'ble Minister of State, Environment and Forest, Government of India, wrote to Shri Digambar Kamat, the then Hon'ble Chief Minister, Government of Goa requesting him to declare the Mhadei WLS situated in the Sattari Taluka of North Goa as a tiger reserve. (*Annexure 6 at page 58 of the petition paper book).*

28. The Union Environment Minister's letter dated 28.06.2011 is transcribed below for the convenience of reference:—

"JAIRAMRAMESH

MINISTER OF STATE (INDEPENDENT CHARGE) ENVIRONMENT & FORESTS
GOVERNMENT OF INDIA
NEW DEIHI-110 003

28th June 2011

Dear Dlgambar

I am writing to you with the request for declaring the Mhadei Wildlife Sanctuary situated in Sattari Taluk of North Goa as a tiger reserve. There is evidence to show that tigers in Goa are not merely transient animals but are a resident population as well Mhadei is a contiguous tiger landscape to Bhimgad Wildlife Sanctuary in Karnataka to its south-east and to Anshi Dandeli Tiger Reserve to its south which has around 35 tigers.

2. In a study carried out in 2008, the Wildlife Institute of India had pointed out that the protected areas of Goa and their contiguous forests in Karnataka and Maharashtra are possibly some of the best potential tiger habitats in the Western Ghats region and they are in need of protection.

3. I understand that there is considerable local community support for the creation of a tiger reserve and for wildlife conservation. By declaring Mhadei Wildlife Sanctuary as a tiger reserve, we would also ensure the long-term protection of biodiversity-rich areas.

4. I urge you to give this idea the most serious consideration and submit a proposal to us so that we can take it forward quickly. You may also want to consider expanding the tiger reserve beyond the existing Mhadei Wildlife Sanctuary.

With warm personal regards,

Yours sincerely,
sd/-
Jairam Ramesh

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Shri Digambar Kamat,
Chief Minister
Government of Goa"

29. For about five years, absolutely nothing was done by the State on the Union Environment Ministers letter dated 28.06.2011. After five years, the NTCA, by its communication dated 31.03.2016, wrote to the Principal Chief Conservator of Forests (Wildlife) & Chief Wildlife Warden, Goa, about notifying Cotigao-Mhadei forest complex in Goa as a tiger reserve. This communication is vital to the issues raised in this petition, and therefore, the same is transcribed below for the convenience of reference.

"E. No. 1-20/2013-NTCA,
Government of India
Ministry of Environment, Forests & Climate Change
National Tiger Conservation Authority
B-1 Wing 2nd Floor
Paryavaran Bhavan CGO Complex
Lodhi Road New Delhi 110 003
Dated : 31.3.2016

To:
The Principal Chief Conservator of Forests (Wildlife) &
Chief Wildlife Warden, Goa
Goa Forest Department
Gomantak Maratha Samay Building
S.V. Road,
Panaji Goa 403 001

Sub : Constitution of a New Tiger Reserve in the State of Goa - reg

Sir,

As you are aware the National Tiger Conservation Authority had conducted status of tigers co-predators and prey in India in collaboration with the Wildlife Institute of India and the State. As per the said exercise Cotigao-Madei Forest Complex of your state has recorded tiger presence meaning thereby having potential to head tiger population. This forest complex comprises of the protected areas covering an area of about 750 sq.mts having contiguity with the Kali Tiger Reserve and Bhimgad Wildlife Sanctuary of Karnataka and other protected areas of Maharashtra state.

In view of the above it would be in the fitness of things to notify the said area as a tiger reserve. This would enable us to provide central assistance to the state to upgrade the protection status of the said landscape under the ongoing Centrally Sponsored Scheme

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of project tiger (CSS-PT) besides fostering the existence agenda with local people in peripheral buffer area.

In this context I am directed to request you that a proposal in this regard may be sent to the Authority from the State Government as required under Section 38 (v) of the Wildlife Protection Act, 1972 to enable us to take further steps in this matter.

Yours faithfully

Sd/-

Dr. H.S. Negi

Inspector General of Forests (N)"

30. Acting on NTCA's above communication dated 31.03.2016, the Conservator of Forests, Goa, wrote to the Deputy Conservator of Forests (Goa) on 19.04.2016 informing him about NTCA intimating that the protected area network of Goa in the western ghats are critical for tiger conservation in the region as these complexes are in continuity with the protected areas like Kali tiger reserve of Karnataka and protected areas in North (Maharashtra). Therefore, the protected network areas in the State of Goa can be notified as a tiger reserve. The Conservator of Forests directed the Deputy Conservator of Forests to demarcate the continuous forested habitat of Goa protected areas in the western ghats, excluding the human habitation/villages which could form the core of a future tiger reserve in Goa. The Conservator directed the Deputy Conservator to prepare the map showing linkages to the protected areas/tiger reserve of Karnataka and Maharashtra in consultation with the Deputy CF (working plan) and submit the same in time bound manner by the end of June 2016 or before.

31. On 20.06.2016, a meeting was convened upon the directions of the Conservator of Forests, Goa, attended by the three Deputy Conservators of Forests, three Assistant Conservators of Forests, the Chief Forest Surveyor and two Forest Surveyors. This meeting was specially convened for the constitution of the tiger reserve in the State of Goa. After deliberation at this meeting, the directions were issued to the Forest Officers to undertake the works of a tentative tiger reserve map after compiling the relevant information and, based upon the same, to prepare a comprehensive proposal for the constitution of a new tiger reserve in the State of Goa. The minutes of this meeting are in Annexure-10 (*pages 64 and 65 of the paper book).*

32. The State Board for Wildlife, as reconstituted vide notification dated 05.08.2016, met on 12.10.2016 under the Chairmanship of the Hon'ble Chief Minister, State of Goa. The Hon'ble Minister for Forests, Panchayats and Environment & Vice Chairperson was also present. In this meeting, under Agenda 3.7 - the subject of the Constitution of a tiger reserve in Goa was considered. No objections were raised about

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the NTCAs recommendation for the constitution of the tiger reserve. However, it was decided that the final proposal should be brought to the Board for approval before it is sent to NTCA for consideration.

33. By communication dated 13.12.2016, the Deputy Conservator of Forests (North) Division forwarded to the Deputy Conservator of Forests, Working Plan Division *"the proposed tiger reserve plan for Madei Wildlife Sanctuary and Bhagwan Mahaveer Wildlife Sanctuary & National Park, Mollem showing the location of all habitats, all weather roads, large habitations excluded from the proposed tiger reserve and household particulars inside & outside the proposed tiger reserve"* for information and necessary action. To this communication was attached the plan showing the proposed tiger reserve area in North Goa Division along with road network and human habitation (*Annexure-12 on pages 68 and 69 of the paper book)*.

34. The Petitioner has also placed on record the steps taken by the Forest Officers and other experts in the context of the Constitution of a tiger reserve in Goa. This includes tour notes of Dr. Debabrata Swain, ADG (PT) & Ms. (NTCA) in Goa and Karnataka. This note discusses the extensive consultations the Member Secretary of NTCA held with high-level forest officials in the State of Goa and Karnataka. Several directions were also issued concerning this protected area. This tour note speaks about camera trap photographs of tigers in the area. This note also records the PCCF, Goa, informing the Member Secretary of NTCA that the Government of Goa is considering constituting Mhadei Wildlife Sanctuary, Bhagwan Mahaveer Wildlife Sanctuary & National Park, Netravali Wildlife Sanctuary and Cotigao Wildlife Sanctuary in the western ghats as a proposed tiger reserve. The note records that the PCCF, Goa, was requested to submit a proposal for constituting a tiger reserve as soon as possible and that the proposal would be considered favourably by the NTCA. (*See Annexure-13 on pages 70-71 of the paper book).*

35. The Petitioner has placed on record a short report on rapid field surveys carried out by the Nature Conservation Foundation, Mysore, in association with the Goa Forest Department between January 20 and 26, 2016, in five protected areas of Goa to evaluate habitat status, forest connectivity and status of the tiger and its prey species. This report was prepared by **Dr. A.J.T. Johnsingh** - Ex-Dean, Wildlife Institute of India, Dehra Dun, Nature Conservation Foundation, Mysore; WWF - India and Corbett Foundation, Dikhuli, Uttarakhand. This report is titled ***"Bringing back the Tiger to Goa"*** and was submitted to the Goa Forests Department on 05.05.2017 (*pages 229 to 252 of the paper book)*.

36. Dr. Johnsingh's report contains photographs, maps and details of protected areas in the State of Goa. The data collected during the

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survey for preparing this report included the occurrence of the tiger and its prey species based on evidence and direct sightings with information on the geographic location and habitat characteristics for direct and indirect (e.g., droppings and tracks) evidence. The report records that the surveyors saw a large scat near the Karnataka border, which could be that of a tiger. The report notes that the tiger should be ranging between Bhimgad WLS and Mhadei WLS as it seems to be an undisturbed tract of forest devoid of human habitation. As a result, here in the early summer of 2017, Goa Forest Department could get evidence of a tiger, two tigresses and two cubs with the help of camera traps (Kerkar 2017).

37. Dr. Johnsingh's report gives its findings, key conservation issues, suggestions, and conclusion. The report states that Mhadei WLS being closer to Bhimgad WLS, is in an advantageous position to have the first residential population of tigers in Goa. There are no mines within the sanctuary, and with the resettlement of Codaval village, Mhadei has the potential to become the primary core of the tiger reserve. Bhagawan Mahaveer WLS and NP have records of tiger sightings. Netravali WLS has reports of tiger sightings as the sanctuary has connectivity with the Kali tiger reserve in Karnataka. No mining occurs within the sanctuary limits. Therefore, if sufficient protection is given, this sanctuary can be a safe haven for large animals. Attempts should be made to establish a satellite core of around 100 sq. km within Netravali WLS. Cotigao WLS is connected to the Kali tiger reserve, so tigers reportedly range into the sanctuary. The report also adds that, *"It is likely that in the past the mining lobby exerted considerable influence against the establishment of a tiger reserve. We wish that this threat does not delay the establishment of the tiger reserve in Goa".*

38. Dr. Johnsingh's report concludes by reference to the status of the tigers report, 2014, in which the population estimate of tigers in Goa was five. The conclusion states that the situation is promising as the contiguous forests of Mhadei WLS, Netravali WLS, Bhagawan Mahaveer NP and WLS and Cotigao WLS of Goa, the reserved forests of Sindhudurg district in Maharashtra, Bhimgad WLS and Kali tiger reserve in Karnataka make this landscape a potential habitat for long term conservation of tiger and other associated species. Accordingly, the report recommends that the entire protected landscape of five existing protected areas (755 sq. km) should be declared as Tiger Reserve with a primary core of 150-200 in Mhadei WLS and a satellite core of 100 sq. km in Netravali WLS. Declaration of this tiger reserve will also protect the catchment areas of important rivers like Mhadei, Malapradha and Tillari. It will help to ensure continuous water availability for the three States of Goa, Karnataka and Maharashtra.

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39. The conclusion also flags that the priority in the entire landscape should be *"control of poaching of prey. Functional and poaching camps are a must.……."*. The report also recommends that generous voluntary resettlement packages be offered to the locals in the area. The long-term tiger conservation goal for Goa should be to have a breeding population of a minimum of ten adult tigers ranging not only in Mhadei but also in Netravali, Bhagwan Mahaveer and Cotigao Wildlife Sanctuaries. The report ends with a pious hope *"We are sure that this is bound to happen if the present leadership in the forest department continues and such leadership is perpetuated for decades to come as conservation is a never ending endeavour".*

40. The Petitioner has placed on record the minutes of the State Board for Wildlife meeting held on 16.12.2017 when the Board considered Dr. Johnsinghs report. The meeting minutes at Agenda item No. 4.5 record Member Secretary informed the Board Members that the *"proposed tiger reserve map is prepared after the Forest Department intensively studies the area in association with Wildlife expert Dr. A.J.T. Johnsingh, Retd. Scientist, WII."* After this, the Chairperson of the Board desired that he be furnished the details along with a study report on the socioeconomic impact on locals residing in the fringe areas before the Board could discuss the same.

41. The relevant extract of the minutes of the State Board for Wildlife meeting held on 16.12.2017 (Annexure-14 on pages 72 and 73 of the paper book) is transcribed below for the convenience of reference.

> **"Agenda item : 4.5 Proposed Tiger Reserve:**
>
> *Member Secretary informed about the proposed Tiger Reserve for which a map has been prepared comprising largely undisturbed areas with few human hamlets as core zone adjoining the Kali Tiger Reserve and Bhimgad Wildlife Sanctuary of Karnataka and Maharashtra in the North of Madei WLS, Bhagwan Mahaveer WLS & NP, Netravali and Cotigao WLS. He explained that the large human settlements and tourism areas have been proposed in the buffer zone in the existing PA. Member Secretary informed that the proposed Tiger Reserve map is prepared after the area is intensively studied by the Forest Department in association with Wildlife expert Dr. A.J.T. Johnsingh, Retd. Scientist, WII. Chairperson desired to furnish him details along with study report on socioeconomic impact on locals residing in the fringe areas before discussing the same in the Board."*

42. Thus, by December 2017, i.e. within about 18 months from the receipt of NTCAs recommendation dated 31.03.2016, at least officials of the Goa Forest Department prepared a map for the tiger reserve *"comprising largely undisturbed areas with few human hamlets as core*

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zone adjoining the Kali Tiger Reserve and Bhimgad Wildlife Sanctuary of Karnataka and Maharashtra in the North of Madei WLS, Bhagwan Mahaveer WLS & NP, Netravali and Cotigao WLS". As the minutes disclose, the tiger reserve map was prepared after the area was *"intensively studied by the Forest Department in association with Wildlife expert Dr. A.J. T Johnsingh, Retd. Scientist, WIL.'* Most of the groundwork necessary to constitute a tiger reserve was complete by this date. However, no decision was taken by the State Board for Wildlife on 16.12.2017 because the Chairperson desired to be furnished details along with a study report on the socio-economic impact on locals residing in the fringe areas before the matter could be discussed in the Board.

43. The Petitioner has then placed on record the office note dated 21.03.2018 (*Annexure-15 on pages 74 to 76 of the paper book)* prepared by the Deputy Conservator of Forests. This office note concerns the proposal for the constitution of a tiger reserve in the State of Goa. This office note refers to the State Board meeting held on 16.12.2017, in which the Chairperson, i.e. the Hon'ble Chief Minister, desired that he be furnished details about the proposal for the tiger reserve. The office note states:"*Upon the direction the detail of proposal is framed and submitted as below".*

44. The document dated 21.03.2018 gives the overview of the proposal for establishing a tiger reserve by explicitly referring to NTCA's communication dated 31.03.2016 by which the MoEF & CC, Government of India had urged the State to consider the constitution of a tiger reserve and to prepare a proposal in that regard. The document refers to the history of the project Tiger in India and its aim & objectives and key tiger habitats. This includes the western ghats landscape complex comprising Karnataka, Kerala, Tamil Nadu and Goa, with about *776* tigers. The details of tiger density extent and population block within the western ghat landscape were placed separately in the file on page 4/c.

45. The document dated 21.03.2018 records that the entire stretch of the protected area network in Goa exists along the western Ghats. Due to better protection, habitat improvement and monitoring using technology such as camera traps, the Goa Forest Officials have confirmed tiger records in North-Eastern parts. The document refers to the action taken on NTCA's communication dated 31.03.2016 and documents about the discussions, workshops, preparation of maps and working plan. In particular, the document records that the map has been drawn to demarcate the contiguous forest habitat in the existing protected area in western Ghat as a core zone keeping main villages and human habitation outside this zone and placing them in the proposed buffer zone as far as possible.

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46. A copy of the map prepared by DCF, a working plan showing the buffer zone, including eco-tourism zones in Mhadei, Bhagwan Mahaveer, Netravali and Cotigao Wildlife Sanctuary, in the proposed tiger reserve, was annexed to the document as Annexure-II. The document records that out of 745.18 sq. km of protected area, about 578.33 sq. km is proposed as the core zone and about 166.85 sq. km as the buffer zone. All this was indicated in the working plan prepared by DCF, which was annexed to the document as Annexure - III. The details of the core and buffer area of the proposed tiger reserve (area-wise), along with the legal status, were shown in tabular format on page 7/C.

47. The document dated 21.03.2018 significantly records that the locations in the protected areas with large habitations have been left out (excluded) from the proposed tiger reserve. Only sites with smaller habitations have been included so that relocations could be minimum. The document concludes by noting that Central assistance of 100% would be provided for non-recurring expenditures and 50% for recurring on the notification of a tiger reserve.

48. Thus, even the document dated 21.03.2018 shows that the major steps concerning the notification of the tiger reserve were complete. All details as desired by the Chairperson of the State Wildlife Board were also duly furnished. Significantly, in demarcating the tiger reserve areas, care was taken as far as possible to ensure that human habitation areas were excluded from the core zone by placing them in the buffer zone to the extent possible. Several plans were prepared, including the core and buffer areas' locations. Still, from 2018 to date, the State Government avoided acting on the recommendation of the NTCA.

49. The Petitioner has also placed on record the NTCA document dated 02.12.2019 (Annexure-16 on pages *77* and 78 of the paper book), titled *"Connecting Tiger Populations for Long-term Conservation'.* This document has mapped out 32 major corridors across the country, including macro/landscape-level tiger corridors. Goa is included in Item No. 2, the *"Sahyadri-Radhanagari-Goa'* corridor. Factually, even the State does not dispute the presence of tigers or the tiger corridor in Goa. The importance of protecting tiger corridors is already discussed earlier.

50. While the State Government was proceeding at a snails pace, in January 2020, the national and local newspapers reported that four tigers were found dead in Mhadei WLS. The investigations ultimately suggested that the tigress and her three cubs died in the Mhadei WLS by consuming poisoned buffalo carcasses. A forest dweller poisoned the carcass because the tigress had killed his buffalo a couple of days earlier. This unfortunate incident could have been easily avoided if the

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State Government had acted with alacrity. While the state attempted to downplay this incident, the Central Government and the NTCA swung into action.

51. Mr. Chodankar, learned counsel for the Central Government and the NTCA, placed on record an Office Memorandum dated 04.02.2020 issued by the NTCA to the Principal Secretary (Forest), Government of Goa informing him that the requisite action as per the SOP and guidelines of NTCA had been taken in the case of death of a tigress with three cubs inside the Mhadei WLS. Further, a team had been constituted by the NTCA to inquire and facilitate the legal action involved in connection with the tiger deaths. This communication also states that the IGF, NTCA, RO, Bengaluru had conducted a supervisory visit on 28.01.2020 and suggested/assisted the future line of action to strengthen the measures in the Mhadei WLS. The action taken report (ATR) was also enclosed for kind information and necessary action by the Government of Goa.

52. The ATR records that as part of All India Tiger Estimation (AITE) - 2018, the Goa Forest Department carried out sign survey activities (Phase I) in May 2018 in potential tiger-bearing areas, including the Mhadei WLS. The survey confirmed the presence of tigers in Mhadei WLS. The ATR records that the preliminary investigation by the Goa Forest Department had revealed that all four tigers had died due to consumption of poisoned buffalo meat. Per the accused's statement, they poisoned the buffalo to kill the tigers and avenge their buffaloes' loss.

53. The ATR refers to IGF's supervisory visit to the protected areas. This report suggested several steps, including strict adherence to the SOPs issued by NTCA in respect of matters involving Tigers and Leopards; expeditious settlement of rights of the forest dwellers; implementation of M-StriPES Scheme; placing of additional camera traps; posting of full-time veterinary officers; timely payment of compensation in cases of human-animal conflicts. The ATR records that the Mhadei WLS has been managed for two decades without any management plan. Therefore, the management plan must be completed at the earliest and on a priority basis. The ATR finally urges that the proposal to declare a tiger reserve should be expedited.

54. The two-member expert committee of NTCA to probe into the death of four tigers in the Mhadei WLS was accompanied on a field visit by the High Ranking Officials of the Goa Forest Department. The report of this committee is quite detailed and exhaustive *(See Annexure-19 - pages 87 to 101 of the paper book).* The plan at paragraph 5 of this Judgment and Order is from this report. The expert committee made as many as twenty-three observations and eighteen recommendations.

55. The NTCA expert committee observed that the unfortunate death

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of four tigers revealed that not all was not well with the management of Mhadei Wildlife Sanctuary. The report quotes some wildlife activists who stated that the presence of tigers in this area was well-known and documented. However, over the years, the Forest Department failed to take any serious and sincere steps to protect and conserve tigers. The expert committee observed no proper protection mechanism inside the sanctuary, like a network of well-connected Anti-Poaching Camps (APC) at strategic locations staffed by Forest Guard/Watchers around the clock, a common feature of well-managed PA/Tiger Reserve. The expert committee observed a high probability that the tigers, their prey base and other flora and fauna might be subjected to varying degrees of poaching pressure. Still, there was no way to know unless a good protection and information network was put in place.

56. The NTCA expert committee reported that, unfortunately, even after more than two decades since Mhadei WLS was declared a Wildlife Sanctuary, it was managed on a completely ad-hoc basis as no management plan existed for such an important sanctuary of Western Ghat. The expert committee observed, *"It gives an impression that wildlife management appears to be a subject which is of least priority for the Goa Forest Department.?*

57. The expert committee observed that there had been several instances of cattle depredation by the tigers and leopards in the past. Still, hardly any compensation was paid by the Forest Department officials to the victims. The representatives of the local Dhangar community also alleged that neither the forest department nor other Government Departments conducted any awareness about human-wildlife conflicts and government schemes for payment of compensation. Similarly, no systematic efforts have been made to estimate the tiger population in the sanctuary using camera trap-based monitoring protocols. The expert committee reported that because only opportunistic camera trapping was done by the Forest Department inside the sanctuary without a designed survey protocol, it was highly possible that the projected tiger population size of Goa may be an understatement.

58. The NTCA expert committee also observed that the protected areas of Goa (Mhadei WLS and Mollem WLS) are part of the Western Ghats landscape complex, with the unique distinction of having the world's largest tiger population. This landscape has several interconnected tiger reserves and protected areas. According to the Status of Tigers in India, 2014 report, Goa has a persistent tiger presence with a conservative estimate of 3-5 tigers. Still, this landscape has the potential to serve as a home for breeding tigers and to increase overall tiger population numbers by providing targeted management inputs. The expert committee strongly recommended that

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the Protected Areas of Goa and the protected forests of Karnataka should be brought under Tiger Reserve at the earliest to facilitate tiger recovery and conserve this biodiversity hot-spot's rich biodiversity. The expert committee reported that this would enhance the value of Western Ghats as a World Heritage Site.

59. The NTCA expert committee also noted that the narrow forest connectivity of the Western Ghats ridge between Goa and Maharashtra is vital in facilitating contiguous tiger occupancy within this landscape. Without up-grading the legal status of Goa's Protected Areas to that of tiger reserves and putting in place a robust protection regime, "the State may become death trap **for** tigers dispersing in this landscape".

60. The NTCA expert committee noted with regret that the issue of declaring Mhadei WLS as a tiger reserve is a long pending one, with the Central Government initiating steps in 2012. The expert committee also referred to the estimates of the economic valuation of the tiger reserves. The research findings indicate that the annual benefits derived from tiger reserves ranged from USD 128 million to 271 million. The expert committee observed that contrary to the claims of certain vested interests that the declaration of tiger reserves will stall the development of the State, an economic evaluation study by NTCA and the Indian Institute of Forest Management (IIFM) establishes that tiger reserves make a significant contribution to the State economy by providing various ecosystem services.

61. The NTCA expert committee finally observed that it was the right time not only for the Mhadei WLS in the State of Goa but to submit proposals for the declaration of WLS for Bhagwan Mahavir National Park, Bhagwan Mahavir Wildlife Sanctuary, Cotigao Wildlife Sanctuary and Netravali Wildlife Sanctuary as Tiger Reserves. This move will secure the habitat for mega carnivores and the associated floral & faunal diversity at the State level and contribute towards conserving the Western Ghats, a biodiversity hot-spot and a 'World Heritage Site'."

62. The NTCAs expert committee report then proceeded to make almost eighteen recommendations, the first of which was to declare the Mhadei WLS as a tiger reserve which would provide the much-needed access to technical, financial and monitoring support from NTCA to safeguard the conservation values of the sanctuary. The expert committee recommended setting up Anti-poaching Camps and delineation of sanctuary boundaries, a systematic survey of the sanctuary, constituting State level Task Force, Deployment of M-StrIPES, Developing informer network, setting up of wireless network, Appointment of dedicated Forest Settlement Officer, Capacity Building, Awareness campaigns, simplifying compensation payment mechanism, preparation of Management plan, Shifting headquarter of Wildlife Division, Posting young, energetic and trained forest officers for the

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sanctuary, State level monitoring of tigers and, Planning voluntary village relocation, etc.

63. Though the expert committee report was furnished to the State Government and the officers of the Goa Forest Department, the record bears out that hardly any steps based upon the observations or recommendations were initiated. The unfortunate death of four tigers in the Mhadei WLS was treated as some one-off incident without appreciating the severe implications. Even three years after the submission of this detailed report by the NTCAs expert committee, the proposal for notifying the tiger reserve moved no further. We say nothing further!

64. In 2021-2022, an issue arose about doubling the stretch of the railway line from Castlerock Karnataka to Kulem in Goa (Part of Phase II of the project from Tinaighat to Vasco). The Central Empowered Committee constituted by the Honble Supreme Court made its report no. 6/2021 in Application No. 1440 in Writ Petition (C) No. 202/1995 before the Hon'ble Supreme Court by the petitioner-Goa Foundation. This report, inter alia, refers to the status of Kali Tiger Reserve (KTR), comprising two important protected areas of the region Dandeli Wildlife Sanctuary (DWS), and Anshi National Park (ANP), which are contiguous. The area of KTR is 1101.51 sq. km. and is bounded by the protected areas of Bhimgad Wildlife Sanctuary (BWS) and Bhagwan Mahaveer Wildlife Sanctuary (BMWS) with wildlife-rich regions of Supa backwaters and forests of Tinaighat Range of Haliyal Division. The forest area of Castlerock Range holds a sizeable population of tigers (25 in 2020). It is also an important tiger corridor in the Central Western Ghats connecting the tiger habitats in Karnataka, Goa and Southern Maharashtra. The camera trap records show that tigers from Bhadra Tiger Reserve, Kali Tiger Reserve, and Sahyadri Tiger Reserve (STR) actively use this corridor for dispersal.

65. On 09.05.2022, Hon'ble Supreme Court disposed of Goa Foundations above application based upon the CEC report. This order is reported in *T.N. Godavarman Thirumulpad* v. *Union of India* (supra). In para 22 and *26 of* this order, there is a direct reference to areas in Goa forming a tiger corridor for the region. Para 22 of the Hon'ble Supreme Court Order reads as follows:—

> ***"22. The landscape in which the railway line is proposed to pass is an important tiger corridor, connecting the three States of Goa, Karnataka and Maharashtra.*** *The report prepared by NTCA regarding the viability of such a railway line is only for the Karnataka part of the project. No such report has been prepared for the Goa part. The Standing Committee of NEWL ought to have sought for a report from NTCA on the Goa part of the project before granting approval for the doubling of the railway line between*

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Castlerock to Kulem ***in view of the fact that it is an important tiger corridor where instances of killing of tigers have been reported.*** *We find merit in the recommendations made by CEC regarding the necessity of taking into account the actual loss of the wildlife habitat by the construction activity for the doubling of the railway line for which heavy machinery would have to be moved and crusher units will have to be established for dumping construction material."*

(*Emphasis supplied*)

66. Thus, even the Hon'ble Supreme Court has taken cognisance of the fact that the Mhadei WLS and areas contiguous to it constitute a vital tiger corridor where instances of killing of tigers have been reported. The Court has also taken cognisance that this important tiger corridor connects three States : Goa, Karnataka and Maharashtra.

67. Mr. Chodankar, learned counsel for the Central Government and NTCA, also placed on record a communication dated 29.09.2022 addressed by NTCA to the Chief Wildlife Warden, Government of Goa, on the declaration of a tiger reserve in Goa. This communication reads as follows:—

"NATIONAL TIGER CONSERVATION AUTHORITY

(*Statutory Body under Ministry of Environment, Forest and Climate Change, Govt. of India)*

F. No. 1-12/2013-NTCA

New Delhi,

September 29th 2022

To,

The Chief Wildlife Warden,

Government of Goa

Sub : Declaration of Tiger Reserve in Goa - reg.

Sir,

I am directed to enclose herewith a copy of email received from Brunila De Souza, Nigvaddo, Saligao, Goa regarding the presence of tigers in Goa and the need for constituting tiger reserve, for your kind information.

In 2020, in the aftermath of death of a tigress and three cubs inside the Mhadei Wildlife Sanctuary, this Authority had requested the State to speed up the process of notifying Mhadei Wildlife Sanctuary as tiger reserve (copy enclosed).

Considering the strategic location of Goa's Protected Areas (PA) within the Western Ghat landscape and the importance of these PAs in ensuring long-term conservation of tigers, it is requested that necessary steps may be initiated for bringing the area under the

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ambit of NTCA.

Endi : As above.

Yours faithfully,
Sd/-
(Rajendra G. Garawad)
Deputy Inspector General (NTCA)
Email : dig2-ntca@nic.in
Tel. (EPABX):+ 91 1124367837-39
FAX:+911124367836

Copy to: *IGF, NTCA, Regional office (Southern Zone), Bengaluru, Karnataka."*

68. The conspectus of the documents, reports, communications, minutes, office notes, maps, plans, etc., establish the presence of tigers in Mhadei WLS and its contiguous areas. Further, due to the contiguity of this area with the wildlife sanctuaries and tiger reserves in Karnataka and Maharashtra, this area is a vital tiger corridor critical for the conservation and protection of the tiger. Based upon recommendations of the NTCA, at least the Goa State Forest Officials have already prepared detailed proposals and plans to constitute the tiger reserve. But the State continues to steadfastly avoid notifying the tiger reserve.

69. The Goa State Wildlife Board minutes dated 12.10.2016 record that an area of 590 square kilometres is relatively free of any human habitation and has now been identified as the likely area for the core zone of the proposed tiger reserve. The material on record shows that regions with significant habitation were excluded from the proposed tiger reserve. Dr. Johnsinghs report, while pointing out the necessity of constituting a tiger reserve at the earliest, refers to the mining lobby in Goa exerting considerable influence against establishing a tiger reserve. This report concludes by observing that the declaration of this tiger reserve will protect catchment areas of important rivers like Mhadei, Malaprabha and Tillari. This will also help to ensure continuous water availability for the three States of Goa, Karnataka and Maharashtra.

70. The State Board of Wildlife duly considered all such material in its meeting on 16.12.2017. However, no decision was taken at this meeting because the Chairperson requested a study of socioeconomic impacts on locals. Even this was provided to the Chairperson and the State Board, as evidenced by the Deputy Conservator of Forest note dated 21.03.2018. This document gives details of all particulars of the proposed tiger reserve, including the socio-economic impact on locals residing in contiguous areas. This document refers to the working plan showing core and buffer zones and confirms that high-habitation regions have been excluded from the tiger reserve. Despite all this material, the State Government or the State Board for Wildlife avoided

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taking any decision on the issue of tiger reserve.

71. After the unfortunate death of four tigers in the Mhadei WLS in January 2020, it was expected by all concerned that the area would be notified as a tiger reserve to ensure a more significant level of protection for the tiger and the tiger corridor. However, even this incident was sought to be trivialised and downplayed. The recommendations made by the NTCA through its ATR or the recommendations in the NTCAs two-member expert committee report were mostly ignored. All recommendations strongly urged the State Government to notify this area as a tiger reserve at the earliest, failing which the State of Goa may become a death trap for tigers dispersing in this landscape. Even these desperate warnings of the NTCAs expert committee were insufficient to move the State Government into action. Therefore, the NTCA, as late as 29.09.2022, once again urged the Goa Government to speed up the process of notifying Mhadei WLS and areas contiguous to it as a tiger reserve.

72. Possibly having regard to such voluminous material and the strong recommendations of the NTCA, the learned AG submitted that the State was not opposed to notifying the area as a tiger reserve. Still, the State believed such a notification could be issued only after the rights and claims of all the forest dwellers in the protected areas were determined and settled. Learned AG submitted that until and unless final notifications under Section 26-A of the WLPA were issued regarding all the areas within the WLS and National Parks, the time was not opportune to notify this area as a tiger reserve. For reasons discussed later, this contention or excuse cannot be accepted.

73. Based on the above factual background and given the rival contentions, the first point to be determined is whether the NTCAs communication dated 31.03.2016, O.M. dated 04.02.2020, action taken report (ATR) dated 04.02.2020, NTCA's expert committee report (pages 87 to 101 of the paper book) and NTCA's communication dated 29.09.2022 amount to "recommendations" under Section 38-V(1) of the WLPA?

74. Section 38-V (1) of the WLPA provides that the State Government shall, *"on the recommendation of the Tiger Conservation Authority"*, notify an area as a tiger reserve. WLPA neither defines the expression *"recommendation"* nor prescribes any particular form or format in which the NTCA could make a recommendation under Section 38-V (1) of WLPA. Therefore, we could consider the natural meaning of the expression *"recommendation"*, bearing in mind the context of its setting in the statutory scheme. This is a permissible exercise in statutory interpretation.

75. In *Commissioner of Income Tax, West Bengal, Calcutta* v. *Raja*

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Benoy Kumar Sahas Roy[5] the Hon'ble Supreme Court has held that when a word is not defined in the Act itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance. However, in selecting one out of the word's various meanings, regard must always be had to the context as it is a fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear. (See also *Ramnarayan* v. *State of UP*[6]). Therefore, reference to some well-known dictionaries and the decisions on the scope of the expression *"recommendation"* would not be out of place.

76. The *Concise Oxford English Dictionary* (Indian Edition) gives the following meaning for the expressions *"recommend"* and *"recommendation"*:

> **Recommend** - V. 1 put forward with approval as being suitable for a purpose or role, » advise as a course of action. » advise to do Something. 2 make appealing or desirable, **3 (recommend someone/thing to)** archaic commend or entrust someone or something to. -DERIVATIVES **recommendable** adj, **recommendatory** adj. **Recommender**

77. The *Cambridge Dictionary* offers the following meanings for *"recommendation"*:

> **a suggestion that something is good or suitable for a particular purpose or Job:**

78. In P. Ramanatha Aiyar's Law Lexicon, the word *"recommendation"* means "a statement expressing commendation or a message of this nature or suggests fit."

79. In *Union of India* v. *Telecom Regulatory Authority of India*[7] the Delhi High Court has explained the expression *"recommend"* as defined in the *Webster's Dictionary* means, *"to advise, to counsel, as recommend that something be done, to speak favourably as suited for some use, function, position etc., to make acceptable or pleasing to suggest, to counsel a course of action and leave its acceptance to that person."* *"Recommend"* implies a favourable or favouring report and precludes an unfavourable or opposing report. Thus *"recommend"* is to present one's advise or choice or as having one's approval and involves the idea that another has the final decision.

80. The United States Court of Appeal, Third Circuit, *in People* ***of Virgin Islands V Price, CA, expressed a similar opinion in Virgin Islands, 181 Federal Reports 2d 394, 396.*** The Court held that the word *"recommend"* has to be seen in the context in which it was suggested by the Standing Committee, conveying the intention of the Legislature to mean *"advise", "suggest"* and *"counsel"*.

81. Crucial on this subject is the decision of the Hon'ble Supreme

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Court in *VM. Kurian* v. *State of Kerala*[8], wherein the Hon'ble Supreme Court was considering the scope of the expression *"recommendation** in Rule 5 of the Kerala Building Rules, which empowered the Government to exempt certain buildings from applying the said rules. The Court held that the perusal of Rule 5 shows that an application for exemption from the provisions of the Rules was required to be processed through GCDA and the Chief Town Planner. The Rule further requires that the application be forwarded to the State Government along with the specific recommendations of GCDA and the Chief Town Planner. The question, therefore, that arose for consideration was the scope of the expression *recommendation* in the context of Rule 5. The Court noted that the Rules or the Statute provided no statutory definition. Therefore, the Court accepted the dictionary meaning of the word *"recommend"* i.e., *"to advise"*, *"to praise or commend".*

82. The Court noted that there was no statutory definition of *"recommendation"* in the Rules. Therefore, the meaning of the word has to be understood in the context of the provisions of the Rules and the object behind such Rules. Since the Rules concerned regulation and construction of a building in an urban area, the object of such rules was the maintenance of public safety and convenience. Thus, the meaning of the word *"recommend"*, when read in the context of the Rules, shows that it means *"giving of a favourable report opposed to an unfavourable one".*

83. Even otherwise, NTCAs communications contain proper recommendations, not merely suggestions or advice regarding notifying the Mhadei WLS and other areas as a tiger reserve. Repeatedly the NTCA exhorted the State Government to notify the tiger reserve expeditiously to arrest further degradation of the tiger and tiger habitat. The NTCA expert committee went to the extent of saying that the delay in notifying might as well render the Goan sanctuaries a death trap for the tigers accessing the well-defined tiger corridor. These strong observations were made after the State Government virtually ignored repeated NTCA and the Central Government recommendations. This led to the unfortunate death of 4 tigers in Mhadei WLS in January 2020.

84. Thus, it is clear that the NTCA's communication dated 31.03.2016, O.M. dated 04.02.2020, action taken report (ATR) dated 04.02.2020, NTCA's expert committee report (*pages 87 to 101 of the paper book)* and NTCA's communication dated 29.09.2022 amount to a recommendation as contemplated by Section 38-V (1) of the WLPA.

85. The second point which arises for consideration is whether the provisions of Section 38-V (1) of WLPA, which provides that the State Government shall, on the recommendation of the NTCA, notify an area

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as a tiger reserve, is mandatory or only directory?

86. In *Anant H. Ulahalkar* v. *Chief Election Commissioner*[9], the Full Bench of this Court, considered in some detail the tests to determine whether a legislative provision is mandatory or directory. The use of expressions like *"shair* or *"may"* are not conclusive, and regard must be had to the true intent of the legislation. However, the use of expressions like *"shair"*, *"should"* or *"mus"* by the legislature, at least *prima facie*, indicates mandatory nature. Similarly, using expressions like *"may* or *"as nearly as may be"* by the legislature, at least *prima facie*, reveals *directory* nature. This decision was affirmed by the Hon'ble Supreme Court in *Shankar Raghunath Devre (Patil)* v. *State of Maharashtra*, [(2019) 3 SCC 220].

87. In *Khub Chand* v. *State of Rajasthan*, AIR 1967 SC 1074, *State (NCT of Delhi)* v. *Sanjay*, (2014) 9 SCC 772, and *State of U.P.* v. *Babu Ram Upadhya*, AIR 1961 SC 751, the Hon'ble Supreme Court has held that the term "shall" in its ordinary significance is mandatory and the court shall ordinarily give that interpretation to that term unless such an interpretation leads to some absurd or inconvenient consequence or bring it in variance with the intent of the legislature, to be collected from other parts of the Act. The Court has held that whether a statute is mandatory or directory depends upon the Legislation's language and phraseology, the Legislature's intention and the nature, design, and consequences which would follow from construing it one way or another.

88. In *Manbodhan Lal Srivastava* (supra), *B.P. Khemka* (supra) and *Kailash* v. *Nankhu* (supra), relied upon by the learned AG, the Hon'ble Supreme Court formulated no different principles. However, the Hon'ble Supreme Court did hold that procedural provision or beneficial legislation must not ordinarily be construed as mandatory unless compelled by expression and specific language of the statute. These decisions also hold that one of the tests for determining whether a provision is mandatory or directory is whether the Legislature has provided any consequences for disobedience.

89. The learned AG emphasised that no civil or penal consequences were provided should the State Government defy or delay the implementation of NTCA's recommendations. He was at pains to submit that once the Legislature provided no such consequences, Section 38-V (1) should not be construed as mandatory. According to us, this cannot be the sole factor for construing Section 38-V (1) as directory. In *Surjeet Singh Bhomra* v. *Bank of India*[10] and *Balwant Singh* v. *Anand Kumar Sharma*[11], the Hon'ble Supreme Court has held that the fact that no consequences of non-compliance are stated in the statute has been considered as a factor tending towards a directory construction.

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But this is only an element to be considered and is by no means conclusive.

90. Section 38-V (1) uses the expression *"shall".* Therefore, going by the precedents, this would at least prima facie indicate a mandate. No absurd or inconvenient consequence would result from construing this provision as mandatory. Instead, a problematic consequence might ensue by construing this provision as directory because then it would be open to the State Government to defy the recommendation of an expert, high-powered central body constituted by Parliamentary Legislation for the specific purpose of adequate protection of the tiger and tiger habitat in India.

91. If each State Government must be given the absolute discretion to notify or not to notify a tiger reserve, notwithstanding the strong recommendation of NTCA, the protection of the tiger, our national animal, and its habitat would be rendered a casualty. The object of the WLPA is to protect wild animals to ensure the ecological and environmental security of the country. The 2006 amendment by which the NTCA was constituted aimed to strengthen project tiger for conserving endangered tigers and tiger habitats. Therefore, even the legislative object and NTCAs statutory position would not support a directory construction.

92. The NTCA is a high-powered central body constituted under the Parliamentary statute. This is Chaired by Union Environment Minister and Vice Chaired by the Minister of State Environment. Three members of the Parliament, eight experts or professionals having prescribed qualifications and experience in the conservation of wildlife and the welfare of the people living in tiger reserves (out of which two shall be from the field of tribal development) are its members. Besides, an environment Secretary, Secretary, Ministry of Tribal Affairs, Secretary, Ministry of Social Justice and Empowerment, Secretary, Ministry of Panchayati Raj are the members of NTCA. The Director General of Forests, Director Wild Life Preservation, six Chief Wild Life Wardens from the tiger reserve States, an officer not below the rank of Joint Secretary and a Legislative Counsel from the Ministry of Law and Justice are also members of the NTCA. An officer not below the level of Inspector-General for Forests having at least ten years of experience in a tiger reserve or wildlife management is the Member Secretary of the NTCA. Sweeping powers have been conferred, and critical functions have been assigned to the NTCA under Section 38-O of the WLPA.

93. Therefore, to hold that Section 38-V (1) is only a directory so that the State Government can brush aside the recommendation of the NTCA would be contrary to the language and phraseology of the provision, the intention of the Legislature and the nature, design and consequences which would follow from construing the same as

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directory. The vesting of absolute discretion in the State Government to unreasonably delay or even refuse to notify a tiger reserve despite recommendations from the expert high-powered central body like NTCA, even with no cogent reasons, would spell doom for the cause of tiger protection. The cause of tiger protection would then be a casualty. This Court cannot blink at the reality that often at the State level, regional, parochial, anthropomorphic, and times, even narrow political considerations would prevail over the more significant national interests involved in conserving and protecting the tiger and the tiger habitat.

94. Regards the absence of consequences, Section 38-O (2) in Chapter IV-B provides that the directions issued by the NTCA in the context of the conservation of tiger or tiger reserves are binding. However, this provision, or no other provision in WLPA, provides for consequences should the State Government embark upon a misadventure of defying such direction. Yet even the learned AG does not dispute that the provisions of Section 38-O (2) are mandatory.

95. Similarly, Section 38-W, which also forms part of Chapter IV-B of WLPA, provides that no alteration in the boundaries of a tiger reserve shall be made except on the recommendation of NTCA and approval of NBWL. Further, no State Government is permitted to denotify a tiger reserve except in the public interest with the approval of NTCA and the National Board for Wildlife (NBWL). This section uses the expression "shall" but does not provide for any consequences should the State Government decide to defy this provision and proceed to alter the boundaries of a tiger reserve or even denotify a tiger reserve. Yet, there can be no doubt that Section 38-W is mandatory, and the State is injuncted from acting otherwise.

96. Ms. Alvares referred to *Ajay Dubey* v. *NTCA*[12] and *Centre for Environment Law WWF-India* v. *Union of India*[13] to point out how the Hon'ble Supreme Court has interpreted the expression *"shall"* appearing in WLPA. In the context of Section 38-V (3) of WLPA, the Court directed that the respective State Governments prepare a tiger conservation plan within six months and submit the same to NTCA for approval where the Legislature had used the expression *"sholl"* in the said provision. Similarly, the Hon'ble Supreme Court held that under Section 33-A of WLPA, the Chief Wild Life Warden was mandated to take such measures in such manner as may be prescribed for immunisation against communicable diseases of the live-stock kept in or within five kilometres of a sanctuary. Again both these sections use the expression *"shall"* but provided no consequences for disobedience.

97. The learned AG submitted that Section 38-O (2) empowers the NTCA to issue binding directions. He proposed that the Legislature could have easily used the expression *"directions"* in Section 38-V (1) if

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it intended the provisions to be mandatory. He submitted that the fact that the Legislature has consciously not used this expression means that the provisions of Section 38-V (1) are only directory and not mandatory. We cannot agree for the reasons discussed hereafter.

98. A careful reading of Section 38-O (2) provision clarifies that the directions referred to therein are general and broad-based for protecting tiger or tiger reserves. Instead, the recommendations contemplated under Section 38-V (1) of WLPA are in the specific context of the State Government notifying a tiger reserve. The legislature was undoubtedly conscious of the distinction between a direction and a recommendation. Yet, the legislature used the expression "recommendation" but clarified that even such a recommendation from a high-powered expert body like the NTCA would oblige the State Government to notify a tiger reserve. The Parliament did not possibly conceive of a situation where a State Government would defy the recommendation of NCTA and insist upon reading the expression "shall" as "may".

99. Incidentally, we must add that even if the provision is directory, it does not mean the State has a licence to openly flout the same without rhyme, reason, or legitimate cause. Substantial compliance is usually expected. At least weighty reasons for incomplete compliance or non-compliance are expected. As discussed later, the State Government's only reason for defying the NTCA is that the rights and claims of the forest dwellers in some of the protected areas of the State of Goa are yet to be settled. This reason, in our opinion, is unacceptable. Such a reason neither constitutes a legal impediment nor a lawful excuse for the State Government to evade notifying the tiger reserve. Besides, by putting forth such cause, the State Government is trying to draw mileage out of its abject failure to adhere to the statutorily prescribed timeline in Section 25-A of the WLPA and the judicial directives of the Hon'ble Supreme Court in Writ Petition No. 337/1995.

100. For all the above reasons, we hold that the provisions of Section 38-V (1) of WLPA are mandatory. The State Government was bound to notify Mhadei WLS and other areas as a tiger reserve, given the recommendations of the NTCA on this issue.

101. The third point which arises for determination is whether, for want of final notification under Section 26-A of the WLPA or due to non-settlement of rights and claims of forest dwellers, can the State Government refuse or unreasonably delay the notification of the tiger reserve?

102. In the affidavit filed by Santosh Kumar, Chief Wild Life Warden, on behalf of the State Government, no contention is raised that the State Government is barred or disabled from notifying Mhadei WLS and

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other areas as a tiger reserve because the State Government is yet to settle the rights and claims of the forest dwellers in the protected area of Goa. The only contention in paras 8 and 10 of the affidavit is that final notification under Section 26-A of the WLPA is yet to be issued in cases of Bhagwan Mahaveer, Mhadei WLS (partly), Netravali WLS (partly). Therefore, it is urged that proposing these areas as tiger reserves without settlement of rights and claims of the forest dwellers *"may be a premature, and will adversely affect larger public interest and further aggravate man-tiger conflict."*

103. Further, in paragraph 10, affiant states that the proposal for notifying tiger reserve in any one of the wildlife sanctuaries *"without first issuing a final notification under the Wildlife (Protection) Act, 1972 would have adverse impact on the larger public as well as aggravate the human-tiger conflict."* Thus, at least in the State's return, there is no case pleaded that the State Government is barred or disabled from notifying a tiger reserve unless a final notification under Section 26-A of the WLPA is issued in cases of its wildlife sanctuaries which may have part of the tiger reserve. In short, at least in its return, the State does not contend that issuing final notification under Section 26-A of the WLPA is a sine qua non for declaring the area a tiger reserve.

104. On the careful analysis of the scheme of WLPA, it is clear that there is no bar or a legal impediment to notify a protected area as a tiger reserve even though final notification under Section 26-A of WLPA may not have been issued concerning protected areas like the sanctuary or national park. Thus, issuing final notification under Section 26-A of WLPA is not a sine qua non for declaring the protected area a tiger reserve.

105. Incidentally, the State Government's return clarifies that no final notification under Section 26-A of WLPA has been issued regarding Bhagwan Mahaveer WLS. But the final notification for an area of 44.27 sq. km from out of 208.48 sq. km is issued in respect of Mhadei WLS. Similarly, a final notification for an area of 56.23 sq. km out of the 211.05 sq. km area is issued in the case of Netravali WLS. A final notification under Section 26-A is already given regarding the entire area of 85.65 sq. km in the case of Cotigaon WLS. Apart from the fact that the issuance of the final notification under Section 26-A of the WLPA is not sine qua non for declaring the protected area as a tiger reserve, even otherwise, non-settlement of rights and claims of forest dwellers in sanctuaries or protected areas cannot always be a valid ground to refuse or to delay the notification of a tiger reserve unreasonably.

106. Under Section 25-A of the WLPA, the Collector shall, as far as possible, complete the proceedings under Sections 19 to 25 (both inclusive) within two years from the date of notification of the

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declaration of sanctuary under Section 18. Section 19 requires the Collector to inquire into and determine the existence, nature, and extent of the rights of any person in or over the land within the sanctuary's limits. Section 21 requires the Collector to issue a proclamation specifying, as nearly as possible, the sanctuary's situation and limits. It requires any person claiming any right mentioned in Section 19 to prefer a written claim in the prescribed form before the Collector, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof. Section 22 provides for inquiry by the Collector. Section 23 deals with the powers of the Collector during such inquiry. Section 24 deals with the acquisition of rights and Section 25 deals with acquisition proceedings.

107. Section 26-A declaration referred to by the learned AG is made when a notification is issued under Section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary have been disposed of by the State Government; or any area comprised within any reserve forest or any part of the territorial waters, which the State Government considers to be of adequate ecological faunal, floral, geomorphological, natural or zoological significance to protect, propagate or to develop wildlife or its environment, is to be included in a sanctuary.

108. Thus, the statutorily prescribed timeline for the settlement of rights and claims of forest dwellers is typically two years from the Section 18 notification date. Section 18(1) notification for Bhagwan Mahaveer Wildlife Sanctuary was issued in 1967; for Mhadei and Netravali Wild Life Sanctuary in 1999. However, to date, i.e. for 56 and 24 years, respectively, the State Government has not bothered to settle the rights and claims of forest dwellers. The Hon'ble Supreme Court, in its order dated 22.08.1997 in Writ Petition No. 337 of 1995 in *Centre for Environment Law, WWF-India* v. *Union of India* (supra), took cognisance of the failure of several State Governments in settling rights and claims of forest dwellers within the statutorily prescribed period of two years. The Hon'ble Supreme Court directed the State Government to complete this process within one year, i.e. by 21.08.1998. Despite the expiry of almost 25 years since this direction was issued, the State of Goa has not bothered to complete the process of determining and settling the rights of the various dwellers. And now, this abject failure, if not open disobedience, is cited as an excuse to avoid notifying the tiger reserve.

109. Therefore, when it comes to determining and settling the rights and claims of the various dwellers, the State of Goa has defaulted in compliance with the time schedule prescribed under the WLPA. Further,

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the State of Goa, in defiance of directions of the Hon'ble Supreme Court dated 22.08.1997, has failed to determine and settle the rights of forest dwellers. As if this was insufficient, the State of Goa now puts forth its own lapses as an excuse for not notifying this area as a tiger reserve.

110. Thus, the State of Goa wishes to take undue advantage of its wrongful acts of defying the statutory timelines and the express direction of the Hon'ble Supreme Court on this subject. Such an excuse can hardly be countenanced. Based upon such reason and by trying to take undue advantage of its lapse, the State is not justified in not notifying the said area as a tiger reserve or contending that it would notify the said area as a tiger reserve only after rights and claims of the forest dwellers in the area are settled and final notification is issued under Section 26A of the WLPA.

111. The NTCA has issued directions under Section 38-O (2) of WLPA vide Circular dated 19.02.2006 that in the areas of Wildlife Sanctuary & National park included in a tiger reserve and where the process of final declaration under Section 26A is yet to be completed (due to non-settlement of rights of forest dwellers), the same must be completed under Chapter IV read with Chapter 1Y-B of the WLPA. From this, it is pretty clear that there is no bar to notifying an area as a tiger reserve even before final notification under Section 26-A of WLPA is issued or even before the determination of rights and settlement of claims of forest dwellers may not be completed for all the above reasons. Instead, the process must be completed under the new provisions more beneficial to the dwellers.

112. For all the above reasons, we hold that issuing final notification under Section 26-A of WLPA is not a sine qua non for notifying protected areas as a tiger reserve. Even otherwise, the non-settlement of rights and claims of forest dwellers in the sanctuary and protected areas of Goa cannot, in the facts and circumstances discussed above, constitute a valid ground for the State Government to refuse or unreasonably delay in notifying Mhadei WLS and other areas as a tiger reserve.

113. The fourth point for determination is whether there are any statutory procedural fetters for notifying a tiger reserve?

114. The learned AG first contended that there were no resolutions to back what he termed "suggestions or advise" of the NTCA; therefore, the NTCA's communications had no legal sanction. Secondly, he contended that the NTCA procedure contemplated invitation of the proposal from the State to notify to constitute tiger reserve, grant of "in principle" approval by the NTCA to such proposals, and the final approval after the tiger reserve States submit the tiger conservation plan under Section 38-V (3) of the WLPA. The learned AG submitted

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that unless there is strict compliance with this procedure, there was no question of the Petitioner or the NTCA insisting that the State notifies Mhadei WLS and other areas as a tiger reserve.

115. On the aspect of the resolutions, no such defence is even remotely raised in the return filed on behalf of the State Government. The learned AG merely handed in some minutes of the NTCA proceedings and, based upon the same, contended that no resolution backed the NTCA's communications. Without the State Government's reply laying any foundation for such an argument, such an argument cannot be accepted.

116. Besides, the minutes produced by the learned AG do not show some consistent practice or procedure. There are instances where the tiger reserves were finally approved without this aspect being reflected, at least in the minutes produced by the learned AG. There are cases of tiger reserves being notified without calling for any proposal from the State Government. Mr. Chodankar, learned counsel for Central Government and NTCA, based on instructions clearly stated that the NTCA has issued not only the recommendation contemplated by Section 38-V (1) but also directions under Section 38-O (2) of the WLPA to the State Government to notify the tiger reserve. Therefore, the State Government cannot avoid notifying Mhadei WLS and the other areas as a tiger reserve based upon a vague plea based upon some ambiguous practice or procedure.

117. The procedure referred to by the learned AG finds no reference in the WLPA. However, Section 38-P (3) does provide that the NTCA shall have the power to regulate its own procedure. Section 38-P (4) of WLPA provides that all orders and decisions of the NTCA shall be authenticated by the Member Secretary or any other officer of the NTCA duly authorised by the Member Secretary in this behalf. The Member Secretary has duly authenticated the communications on which the Petitioner rely. Mr. Chodankar, learned counsel for the NTCA, asserts that these are the NTCA's recommendations.

118. Therefore, it is difficult to read or construe some procedural fetters as suggested by the learned AG. The State Government cannot avoid notifying Mhadei WLS and other areas as a tiger reserve based upon such alleged and vague procedural fetters. Though the NTCA can formulate its procedure, it cannot impose any impediments when the Parliamentary Statute that constitutes it has chosen not to do so. So also, the states cannot place such fetters on the NTCA based on some vague practices or undefined procedures.

119. The NTCA (normative Standards for tourism activities and project tiger) Guidelines, 2012, were referred to by the learned AG and Ms. Alvares. Recitals to these guidelines referred to clause (c) of sub-section (1) of Section 38-O of the WLPA, which empowers the NTCA to

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lay down normative standards for tourism activities and guidelines for project tiger from time to time for tiger conservation in the buffer and core areas of tiger reserves to ensure their due compliance. The NTCA has made these 2012 guidelines.

120. Clause 3 of the Guidelines refers to "background". This clause lists various tiger reserves and the area over which they are spread. This clause also refers to final approval being accorded to Kudremukh (Karnataka) for declaring it a tiger reserve. Finally, this clause also refers to the concerned State Governments having been advised to send proposals for declaring the specified areas as tiger reserves. In clause (v), there is a reference to "Mhadei Sanctuary (Goa)".

121. Based on Clause 3 of the Guidelines, the learned AG argued that the NTCA communications constituted only some advice to send a proposal to the NTCA. He argued that advice did not amount to a recommendation. He further argued that the NTCA procedure required the proposal to be approved in principle. Only "in-principle approval" could be taken as NTCAs recommendation, based upon which the State Government would have a discretion whether or not to notify the area in question as a tiger reserve.

122. As discussed earlier, the minutes handed in by the learned AG do not show any consistent practice or procedure adopted by the NTCA. Besides, we found no significant difference between advice, suggestion or recommendation. Therefore, even in clause (3) of the guidelines, the NTCA recommended that the State Government notify a tiger reserve. The provisions of Chapter IV-B of WLPA do not expressly contemplate the invitation of the proposal from the State before any recommendation can be made or directions issued to notify a tiger reserve. The vague practice or undefined procedure referred to by the learned AG would have to yield to the provisions in Chapter IV-B of WLPA. Therefore, even assuming that there is any procedure or practice, the same cannot indeed operate as a fetter to the NTCA recommending the State Government to notify a tiger reserve.

123. For all the above reasons, we find no statutory fetters disabling the NTCA to make a recommendation and the State of Goa to notify a tiger reserve based upon such a recommendation.

124. Fifthly, the State contends that equal protection is due to all wild animals, not just tigers. While the State s claim to steer clear of the Orwellian manner of treating some animals more equal than the others is appreciable, this should not be achieved by collectively reducing the level of protection for all wild animals, as the record unfortunately shows. Dr. Johnsingh Report and the NCTA expert Committee Report speak of how the Mhadei WLS is still without a proper management plan. The reports talk about poaching pressure and unscientific data collection techniques.

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125. Besides, the argument forgets that the entire ecosystem, including other animals, is protected by protecting the tiger. As discussed earlier, the tiger is a unique animal which plays a pivotal role in the health and diversity of an ecosystem. It is a top predator at the apex of the food chain. Therefore, the presence of tigers in the forest is an indicator of the well-being of the ecosystem. Protection of tigers in forests protects the habitats of several other species. Indirect benefits of preserving a tiger include several ecosystem services like protection of rivers and other water sources, prevention of soil erosion and improvement of ecological services like pollination, water table retention etc. Conversely, the absence of this top predator indicates that its ecosystem is not sufficiently protected. Based on such considerations, not only was the *Project Tiger* formulated by the Central Government but the Parliament deemed it appropriate to arm this project with a statutory status by amending the WLPA and constituting the NTCA to give special protection to tigers and tiger habitats.

126. Finally, we refer to some Constitutional provisions, the scheme of WLPA, and precedents supporting the notification of a tiger reserve, given the repeated recommendations of NTCA and other factual and scientific material on record.

127. Article 48-A of the Constitution exhorts that the State shall endeavour to protect and improve the environment and safeguard the country's forests and wildlife. Article 48-A is a directive principle of State policy. Article 37 provides that directive principles shall not be enforceable by any Court. Still, the principles laid down therein are fundamental in the country's governance, and it shall be the duty of the State to apply these principles in making the laws. Similarly, Article 51-A(g) provides that every citizen of India shall be responsible for protecting and improving the natural environment, including forests, lakes, rivers and wildlife and having compassion for living creatures.

128. Given these Constitutional provisions, the least expected of the State was not to oppose or unreasonably delay the proposal for notifying an area as a tiger reserve when a high-powered, expert, central body, i.e. the NTCA, recommends its notification. Even the material on record in the form of Forest Department officials' documentation & detailed studies, expert studies, etc., cries out for such notification if further damage is to be halted. The learned AG was at pains to point out that the State was not opposed to notifying the area as a tiger reserve but only felt that such notification could be issued once the rights and claims of all forest dwellers in the protected areas are determined and settled. Such an argument found no support in the legal regime of WLPA or even otherwise, as discussed above.

129. The WLPA was enacted to protect wildlife animals, birds and

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plants and to ensure the country's ecological and environmental security. The Statement of Objects and Reasons (SOR) records that the rapid decline of India's wild animals and birds, one of the richest and most varied in the world, has been a cause of grave concern. Some wild animals and birds have already become extinct in this country, and others are in danger of being so. Areas once teeming with wildlife have become devoid of it, and even in Sanctuaries and National Parks, the protection afforded to wildlife needs to be improved.

130. The S.O.R. records that the Wild Birds and Animals Protection Act, 1912 has become entirely outmoded. The existing State laws are outdated and provide punishments that are not commensurate with the offence and the financial benefits of poaching and trade in wildlife produce. Further, such laws mainly relate to the control of hunting and do not emphasise the other factors which are also prime reasons for the decline of India's wildlife, namely, taxidermy and trade in wildlife and products derived from there.

131. The S.O.R. records that having considered the relevant local provisions in the States; the Government concluded that these are neither adequate nor satisfactory. Therefore, there was a need for comprehensive legislation that would protect wild animals and birds and for all matters connected therewith or ancillary and incidental to it. Accordingly, the WLPA was enacted to (a) constitute a Wild Life Advisory Board for each State; (b) regulate the hunting of wild animals and birds; (c) lay down the procedure for declaring areas as Sanctuaries, National Parks, etc.; (d) regulate possession, acquisition or transfer of, or trade-in wild animals, animal articles and trophies and taxidermy thereof; and, (e) provide penalties for contravention of the Act.

132. Project Tiger was launched in the country on 1st April 1973 to conserve the endangered tiger. Initially, nine Tiger Reserves were covered under the project, which, when the Wildlife (Protection) Amendment Act, 2006 was introduced, had increased to twenty-eight Tiger Reserves, falling in seventeen States. The SOR to the 2006 Amendment records this fact and refers to the Central Government funding support to the States under the *"Project Tiger".* It records that the implementation of the project over the years highlighted the need for a statutory Authority, having legal backing with well-defined functions, for the conservation of tigers in the country. Despite the project being ongoing for more than three decades, the status of tigers in the country remains critical, necessitating the need to address the issue right from planning to administration and making provisions for dealing with cases of violation.

133. The Task Force appointed for this purpose recommended strengthening Project Tiger by giving it statutory and administrative

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powers. The 2006 amendments note the concerns and needs of the local people. The amendments aimed to put in place a mechanism which would balance and manage the livelihood needs of the local people with the imperatives of tiger conservation. One of the significant objectives of the 2006 Amendment was to provide for the constitution of the National Tiger Conservation Authority (NTCA) and define its powers and functions. Accordingly, amongst other amendments, Chapter IV-B, entitled "NATIONAL TIGER CONSERVATION AUTHORITY", in WLPA comprising Sections 38-K to 38-XA, was introduced in WLPA.

134. Section 38-K contains definitions. Section 38-L requires the Central Government to constitute the NTCA to exercise the power conferred on and to perform the functions assigned to it under the WLPA.

135. Section 38-O is concerned with the powers and functions of the NTCA, and the same reads as follows:—

> ***38-O. Powers and functions of Tiger Conservation Authority -(1)*** *The Tiger Conservation Authority shall have the following powers and perform the following functions, namely : -*
>
> (*a) to approve the Tiger Conservation Plan prepared by the State Government under sub-section (3) of section 38-V of this Act;*
>
> (*b) evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use such as, mining, industry and other projects within the tiger reserves;*
>
> (*c)lay down normative standards for tourism activities and guidelines for Project Tiger from time to time for tiger conservation in the buffer and core area of tiger reserves and ensure their due compliance;*
>
> (*d) provide for management focus and measures for addressing conflicts of men and wild animals and to emphasise on co-existence in forest areas outside the National Parks, sanctuaries or tiger reserve, in the working plan code;*
>
> (*e) provide information on protection measures including future conservation plan, estimation of population of tiger and its natural prey species, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation;*
>
> (*f) approve, co-ordinate research and monitoring on tiger, co. predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;*
>
> (*g) ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve are not diverted for ecologically unsustainable uses,*

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except in public interest and with the approval of the National Board for Wild Life and on the advice of the Tiger Conservation Authority;

(*h*) *facilitate and support the tiger reserve management in the State for biodiversity conservation initiatives through eco-development and people's participation as per approved management plans and to support similar initiatives in adjoining areas consistent with the Central and State laws;*

(*i*) *ensure critical support including scientific, information technology and legal support for better implementation of the Tiger Conservation Plan;*

(*j*) *facilitate ongoing capacity building programme for skill development of officers and staff of tiger reserves; and*

(*k*) *perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of tigers and their habitat.*

(*2*) *The Tiger Conservation Authority may in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of tiger or tiger reserves and such person, officer or authority shall be bound to comply with the directions:*

Provided that no such direction shall interfere with or affect the rights of local people particularly the Scheduled Tribes."

136. Section 38-P provides that the NTCA shall regulate its own procedure, and all orders and decisions of the NTCA shall be authenticated by the Member Secretary or any other officer of the said Authority duly authorised by the Member Secretary in this behalf.

137. Section 38-V is concerned with *"tiger conservation"*, and the same, being most relevant for the issues raised in the present petition, is transcribed below for the convenience of reference:—

"38-V. *Tiger* ***Conservation Plan.****-(1) The State Government shall, on the recommendation of the Tiger Conservation Authority, notify an area as a tiger reserve.*

(*2*) *The provisions of sub-section (2) of section 18, subsections (2), (3) and (4) of section 27, sections 30, 32 and clauses (b) and (c) of section 33 of this Act shall, as far as may be, apply in relation to a tiger reserve as they apply in relation to a sanctuary*

(*3*) *The State Government shall prepare a Tiger Conservation Plan including staff development and deployment plan for the proper management of each area referred to in sub-section (1), so as to ensure -*

(*a*) *protection of tiger reserve and providing site specific habitat inputs for a viable population of tigers, co-predators and prey*

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animals without distorting the natural prey-predator ecological cycle in the habitat;

(*b) ecologically compatible land uses in the tiger reserves and areas linking one protected area or tiger reserve with another for addressing the livelihood concerns of local people, so as to provide dispersal habitats and corridor for spill over population of wild animals from the designated core areas of tiger reserves or from tiger breeding habitats within other protected areas;*

(*c) the forestry operations of regular forest divisions and those adjoining tiger reserves are not incompatible with the needs of tiger conservation.*

(*4) Subject to the provisions contained in this Act, the State Government shall, while preparing a Tiger Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve.*

Explanation,- For the purposes of this section, the expression "tiger reserve" includes

(*i) core or critical tiger habitat areas of National Parks and sanctuaries, where it has been established, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose;*

(*ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, identified and established in accordance with the provisions contained in Explanation (i) above, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate dispersal for tiger species, and which aim at promoting co-existence between wild life and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people, wherein the limits of such areas are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose.*

(*5) Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this subsection, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless -*

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(*i) the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;*

(*ii) the concerned agencies of the State Government, in exercise of their powers under this Act, establishes with the consent of the Scheduled Tribes and such other forest dwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat;*

(*iii) the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of coexistence, are not available;*

(*iv) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;*

(*v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and*

(*vi) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall note interfered with?*

138. Section 38-W bars the alteration in the boundaries of a tiger reserve except on a recommendation of the NTCA and approval of the National Board for Wild Life (NBWL). Further, this Section provides that no State Government shall de-notify a tiger reserve except in the public interest with the approval of the NTCA and NBWL. Section 38-X provides for the establishment of Tiger Conservation Fund by the respective State Governments for tiger reserves within the State.

139. The 2006 amendment provided for the constitution of NTCA, and the 2003 amendment introduced Section 5A for the constitution of the National Board for Wildlife (NBWL). Considering the powers and functions of the NBWL, the Hon'ble Supreme Court in *Center for Environmental Law, World Wide Fund-India* v. *Union of India*[14] held that NBWL is the top most scientific body established to frame policies and advise the Central and State Governments on the ways and means of promoting wildlife conservation and to review the progress in the field of wildlife conservation in the country and suggesting measures for improving the same. The Court held that Central and the State

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Governments could not brush aside NBWL's opinion without any cogent or acceptable reasons having regard to the position, the constitution, powers and functions of the NBWL.

140. Despite providing for the constitution of NBWL by the 2003 amendment, Parliament deemed it appropriate to constitute the NTCA vide the 2006 amendment. Thus, yet another expert and high-powered body was constituted that focused on protecting the tiger and tiger habitat. Accordingly, the observations of the Hon'ble Supreme Court in *Center for Environmental Law, World Wide Fund-India* (supra) would equally apply, and the State Government cannot be permitted to brush aside the NTCA's opinion without any cogent or acceptable reason. Delaying implementation of the NTCA's recommendations unreasonably and for reasons which are neither genuine nor germane amounts to brushing aside the NTCA's opinion without any cogent or acceptable reasons.

141. In *Center for Environmental Law, World Wide Fund-India* (supra), the Hon'ble Supreme Court observed that the rapid deterioration of the ecology due to human interference is aiding the rapid disappearance of several wild animal species. Poaching and the wildlife trade, habitat loss, human-animal conflict, epidemics etc., are also some of the reasons which threaten and endanger some species. The Court recorded in para 42 that the fragmented nature of wildlife-rich areas, increased human pressure, habitat degradation, the proliferation of invasive species, human-animal conflicts, poaching, impacts of changing climate etc., are some challenges that must be addressed at a war footing. The necessity for ensuring better wildlife protection outside the protected areas and initiating recovery programmes for saving critically endangered species and habitats was also highlighted by the Court.

142. In *Center for Environmental Law, World Wide Fund-India* (supra), the controversy concerned the translocation of some of the Gir Asiatic Lions from the State of Gujarat to the State of Madhya Pradesh. The NBWL had opined that the Gir Asiatic Lions must have a second home in Kuno, Madhya Pradesh. The State of Gujarat and its Board for Wildlife argued that the Gir Asiatic Lions were well cared for in Gujarat. Further, such lions were like family members of all Gujarathis, and therefore, the same could not be parted with. The Court rejected the State of Gujarat's contention by styling the same as anthropocentric, not ecocentric. The Court held that the views of NBWL constituted by the Central Government must prevail over the opinions expressed by the State Government or the State Board for Wildlife.

143. In *Center for Environmental Law, World Wide Fund-India* (supra), the Hon'ble Supreme Court held that in such matters, our approach should be ecocentric and not anthropocentric.

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Anthropocentrism is always human interest focused, thinking that a non-human has only instrumental value to humans; in other words, humans take precedence and human responsibilities to non-human are based on human benefits. Eco-centrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence, and humans have obligations to non-humans independently of human interest. Eco-centrism is life-centred and nature-centred, where nature includes both humans and non-humans. The Court also held that we must apply *"species best interest standard"* because such species have equal rights to exist on this earth. The Court held that Article 21 of the Constitution of India protects human rights and casts an obligation on human beings to protect and preserve a species becoming extinct. Conservation and protection of the environment is an inseparable part of the right to life.

144. In *T.N. Godavarman Thirumulpad* v. *Union of Indian*[15] (wild buffalo case), the Hon'ble Supreme Court issued sweeping directions for protecting wild buffaloes in the State of Chattisgarh. In the context of the schemes for protecting and conserving wild buffaloes, Asiatic lions, and other critically endangered species, the Court highlighted the necessity for a recovery programme to ensure long-term conservation schemes. The Court held that such schemes have statutory status and must be implemented in their letter and spirit.

145. In *T.N. Godavarman Thirumulpad* (wild buffalo case) (supra), the Hon'ble Supreme Court held that the human-wildlife conflict is fast becoming a critical threat to the survival of many endangered species like wild buffalo, elephants, tigers, lions, etc. Such conflicts affect its population and have broadened environmental impacts on ecosystem equilibrium and biodiversity conservation. *Laws are man-made, hence there is likelihood of anthropocentric bias towards man, and rights of wild animals often tend to be of secondary importance but in the universe man and animals are equally placed, but human rights approach to environmental protection in case of conflict, is often based on anthropocentricity Man-animal conflict often results not because animals encroach human territories but vice versa. Often, man thinks otherwise, because man's thinking is rooted in anthropocentrism. The Court said that we must remember that we are talking about the conflict between man and endangered species, endangered not because of natural causes alone but because man failed to preserve and protect them; the attitude was destructive, for pleasure and gain.*

146. In the above case, the Court further emphasised that the State was duty-bound to preserve and protect wildlife and its corridors. The Court noted that *areas outside protected areas is reported to have the maximum number of man-animal conflict where the wild animals fall*

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prey to poachers easily and often invite ire of the cultivators when they cause damage to their crops. The Court held that these issues have to be scientifically managed to preserve and protect the endangered species, like wild buffalo and other species included in Schedule I, Part I of the WLPA, and other species that face extinction. The Court stressed that environmental justice could be achieved only if we drift away from the anthropocentric principle to ecocentric. The Court held that Ecocentrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence, and humans have obligations to non-humans independently of human interest. Ecocentrism is life-centred and nature-centred, where nature includes both humans and non-humans.

147. In *State of Bihar* v. *Murad Ali Khan*[16], the Hon'ble Supreme Court held that the policy and object of the wildlife laws have a long history and are the result of increasing awareness of the compelling need to restore the serious ecological imbalances introduced by the depredations inflicted on nature by man. The State to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps are taken, the damage might become irreversible. The preservation of the fauna and flora, some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of humanity and *these laws reflect a last-ditch battle for the restoration, in part at least, a grave situation emerging from along history of callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment.* The tragedy of the predicament of the civilised man is that *"Every source from which man has increased his power on earth has been used to diminish the prospects of his successors. All his progress is being made at the expense of damage to the environment which he cannot repair and cannot foresee"*.

148. In the above case, the Court, after quoting King Asoka's decree for the preservation of wildlife and environment (Third Century B.C.), held that Environmentalists' conception of the ecological balance in nature is based on the fundamental concept that nature is *"a series of complex bio tic communities of which a man is an inter-dependant part" and that it should not be given to a part to tresspass and diminish the whole. The largest single factor in the depletion of the wealth of animal life in nature has been the "civilized man" operating directly through excessive commercial hunting or, more disastrously, indirectly through invading or destroying natural habitats."*

149. In *World Wild Fund for Nature India* v. *Union of India*[17] the

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Division Bench of Delhi High Court speaking through Dalveer Bhandari, J (as His Lordship then was) discusses in great detail the genesis of WLPA in a public interest litigation seeking directions to take all proper and necessary steps to protect wild animals including tigers in particular from being poached or illegally hunted. The Court referred to Articles 21 and 48-A of the Constitution and observed that the directive principle is neither "a mere rope of sand" nor "a mere pious wish." The Court held that both the fundamental rights and directive principles are supplementary and complementary to each other. The fundamental rights are a means to achieve the directive principles that constitute the aspirations whose fulfilment is regarded as essential to the kind of society our country should have.

150. The Division Bench of Delhi High Court refers to an article in "Time Magazine" (March 28, 1994) about how Asia's giant cats are a vanishing breed, disappearing faster than any other large mammal except for the rhinoceros. This article warns that unless something dramatic is done to reverse the trend, tigers will be seen only in captivity, prowling in zoos or performing in circuses. The wild tigers of old will be gone forever, their glory surviving merely in storybooks, on film and in dreams. The article also mentions, [a]*.....for all the tiger's power, it can be an easy animal to kill. Many cats in the Ranthambhore park have died from the poison that villagers sprinkled on animals that the tigers had killed and temporarily left on the ground.*.....".

151. Therefore, based upon provisions of the Constitution of India and the WLPA, we cannot allow the tiger, which is a national animal, to fall into a death trap (to quote the exact words of the NTCA expert committee constituted to inquire into unfortunate death of tigress and three cubs in the Mhadei WLS in January 2020.) On the conspectus of material on record, the legal and constitutional scheme and repeated recommendations of the NTCA, a mandamus is liable to be issued to the State of Goa to notify the Mhadei WLS and other areas referred by the NTCA as a tiger reserve in compliance with the mandate of Section 38-V(1) of the WLPA. Further, the State Government must take emergent steps to prepare a tiger conservation plan and submit the same for approval to the NTCA as required by Section 38-V (3) of the WLPA.

152. There appears to be some misimpression that the moment the area is notified as a tiger reserve, there would be large-scale displacements of populations and the rights of the forest dwellers would be drastically affected. This needs to be corrected. The material on record shows that the Goa Forest Department officials have already excluded the high-habitation areas from the proposed tiger reserve when preparing the plan. Besides, several provisions in WLPA and the NTCA Guidelines of 2012 stress the co-existence of humans with

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wildlife. Therefore, the Goa Forest Department officials must initiate a campaign to assure the scheduled tribes or other forest dwellers that their interests will not be adversely affected and their concerns will be suitably addressed.

153. The Forest Department of the State of Goa must make forest dwellers, including in particular the Scheduled Tribes, aware that every care would be taken to secure their rights instead of creating an impression that their rights would be adversely affected by notifying the Mhadei WLS and other areas as a tiger reserve. Further, while preparing the tiger conservation plan, the State Government must address the local persons' livelihood concerns as required under Section 38-V (b) of the WLPA.

154. Regards the rights of the Scheduled Tribes and other forest dwellers, the explanation to Section 38-(V) of the WLPA provides that the expression "tiger reserve" includes the critical tiger habitat areas of national parks and sanctuaries, where it has been established, based on scientific and objective criteria, that such areas are required to be kept as inviolate for tiger conservation, "*without affecting the rights of the Scheduled Tribes or such other forest dwellers"* and notified as such by the State Government in consultation with an expert committee constituted for the purpose.

155. Similarly, a tiger reserve includes buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate dispersal for tiger species, and which aim at *"promoting coexistence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people*\ wherein the limits of such areas are determined based on scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose.

156. Section 38-V (5) provides that save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected to create inviolate areas for tiger conservation unless:—

(i) the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;

(ii) the concerned agencies of the State Government, in exercise of their powers under this Act establishes with the consent of the Scheduled Tribes and such other forest dwellers in the area, and

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in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat;

(iii) the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of coexistence, are not available;

(iv) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;

(v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and

(vi) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with.

157. Therefore, it is not as if no sooner than a tiger reserve is notified, there would be some large-scale resettlement and relocation of Scheduled Tribes or other forest dwellers occupying some areas in the tiger reserve. Besides, from the material on record, the Goa Forest Department officials have ensured that most habitation areas are already excluded from the core area of the proposed tiger reserve.

158. The NTCA's Guidelines of 2012 also contain provisions for promoting coexistence between wildlife and human activity with due recognition of the local people's livelihood, developmental, social and cultural rights. We think that the Forest Department should disseminate the information about these guidelines and policy instead of encouraging the impression that the rights of the Scheduled Tribes and other forest dwellers would be adversely affected or that there would be some large-scale immediate displacement.

159. For all the above reasons, we dispose of this petition by making the following order:—

(i) We direct the State Government to notify the Mhadei WLS and other areas referred to in NTCA's communications (and the plans prepared by the Goa Forest Department Officials) as a tiger reserve under Section 38-V (1) of the WLPA within three months from today;

(ii) We direct the State Government to take all steps to prepare a tiger conservation plan as contemplated by Section 38-V (3) of

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the WLPA and to forward the same to the NTCA within three months from notifying the Mhadei WLS and other areas as a tiger reserve;

(iii) We direct the NTCA to render full assistance to the State Government for completing the above process and after that to expeditiously process the State Government's Tiger Conservation Plan and take a decision thereon within three months of receiving the tiger conservation plan from the State Government;

(iv) We direct the State Government to set up anti-poaching camps at strategic locations to be staffed by forest guards, watchers, etc., in the WLS and National Parks in the State of Goa. This exercise must be completed within six months;

(v) We direct the State Government and the Forest Department authorities to take emergent steps to ensure that there are no encroachments in the protected forest areas like WLS and National Parks pending notification of the tiger reserve, and even after that;

(vi) We direct the State Government to determine and settle the rights and claims of the Scheduled Tribes and other forest dwellers following the law as expeditiously as possible and preferably within 12 months from today.

160. The rule is made absolute in the above terms without any cost order.

———

[1] (2022) 9 SCC 306

[2] 1958 SCR 533

[3] (2005) 4 SCC 480

[4] (1987) 2 SCC 407

[5] AIR 1957, 768

[6] AIR 1957 SC 18

[7] 1998 (46) DRJ

[8] (2001) 4 SCC 215

[9] [(2017) 1 Mah LJ 431]

[10] (2016) 4 SCC 204

[11] (2003) 3 SCC 433

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[12] 2012 SCC OnLine SC 875

[13] (1998) 6 SCC 483

[14] (2013) 8 SCC 234

[15] (2012) 3 SCC 277

[16] (1988) 4 SCC 655

[17] 1994 SCC OnLine Del 233

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IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 2166 OF 2024
IN
PIL WRIT PETITION NO. 15 OF 2022

THE GOA FOUNDATION, THR. ITS SECRETARY, DR CLAUDE ALVARES ... PETITIONER

VS

STATE OF GOA, THR. ITS CHIEF SECRETARY AND 2 ORS. ... RESPONDENT

****

Ms. Norma Alvares, Senior Advocate with Mr. Om D'Costa, Advocate for the Petitioner.

Ms. Maria Correia, Additional Government Advocate for the Respondents-State.

Mr. Raviraj Chodankar, Central Government Standing Counsel for Respondent Nos. 5 and 6 in PILWP No.15/2022.

CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. & BHARAT P. DESHPANDE, J.

DATED: 17th OCTOBER 2024

P.C:

1. We have passed an order on Miscellaneous Civil Application No. 1854 of 2024 (Filing) today, whereby time for determining and settling the rights of the Traditional Forest Dwellers has been extended by a period of 9 months.

2. In view of the above, the contempt petition also stands disposed of.

BHARAT P. DESHPANDE, J. **THE CHIEF JUSTICE**

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ANNEXURE 7

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. No. 61370 of 2021 [Report No. 06 0f 2021]
In
Application No. 1440 of 2020

I.A. No. 107884 of 2021
and
I.A. No. 30853 & 30858 of 2022
In
Writ Petition (Civil) No. 202 of 1995

In the Matter of:

T.N. GODAVARMAN THIRUMULPAD

.... Petitioners (s)

Versus

UNION OF INDIA AND ORS. & ORS.

.... Respondent (s)

O R D E R

1. In Interlocutory Application (I.A.) No.1308 of 2015 and other connected I.A.s in Writ Petition (C) No.202 of 1995, this Court on 05.10.2015 directed the National Board for Wildlife ('NBWL') to furnish a copy of the orders passed by it relating to matters of National Parks and Wildlife Sanctuaries. The Central Empowered Committee ('CEC') was given liberty to

approach this Court by filling an appropriate application, if they were not satisfied with the decision of the Standing Committee of NBWL while other aggrieved parties were given the liberty to approach the appropriate forum.

2. In its 56th meeting held on 17.12.2019, the Standing Committee of NBWL recommended the proposal for wildlife clearance for doubling of existing railway line from Castlerock (Karnataka) to Kulem (Goa) involving 120.875 hectares of land within protected area and 113.857 hectares of land in non-protected area reserved forest 7.018 hectares, passing through Bhagwan Mahaveer Wildlife Sanctuary, subject to fulfilling certain conditions.

3. The Goa Foundation filed an application before the CEC on 26.06.2020 stating that the Standing Committee of NBWL had recommended granting wildlife clearances for doubling of 26 km stretch of the railway line in Western Ghats from Castlerock in Karnataka to Kulem in Goa in violation of the order passed by this Court on 05.10.2015. Apart from the objection to the project by Goa Foundation, a large number of appeals/representations were received by the CEC from scientists, researchers, ecologists, environmentalists,

lawyers, veterinarians, artists, painters, illustrators, filmmakers, musicians, sculptures, students, villagers, tourism and travel trade. After examining the matter in detail, the CEC submitted Report No.6 of 2021 on 23.04.2021 in the application filed by Goa Foundation. In this report, the CEC recommended revocation of the permission granted by the Standing Committee for NBWL for doubling of the railway line passing through the ecologically sensitive Western Ghats from Tinaighat-Castlerock in Karnataka to Kulem in Goa involving 120.875 hectares of land as such permission was in violation of the guidelines issued by the Ministry of Environment, Forest and Climate Change (MOEF&CC) under the Wildlife Protection Act, 1972 and the order dated 05.10.2015.

4. In the said report dated 23.04.2021, the importance of western ghats eco-system which is one of world's eight hotspots was highlighted. It was mentioned in the said report that the Western Ghats spread across 9 National Tiger Reserves, 20 National Parks and about 68 Wildlife Sanctuaries and the landscape forms one of the largest and most contiguous Protected Area networks in the country.

5. In so far as the doubling of the railway line from Castlerock to Kulem is concerned, the CEC examined the details of the project. According to Rail Vikas Nigam Limited ('RVNL') doubling of existing 342 km line from Hospet to Murmagao port was sanctioned by the Ministry of Railways at the cost of Rs. 2127 Crores for enhancing section capacity of existing single line track. The only railway line between Hospet and Vasco Port passing through forest land where there is no alternative as the alignment invariably has to pass through the forest. The proposed railway doubling line is parallel to the existing railway line which passes through same forest along the same corridor. The estimated cost for the project from Castlerock to Kulem is Rs. 90 crores and the capacity utilization of the existing line track has increased to 120%.

6. The Standing Committee of NBWL recommended the proposal made by RVNL for doubling the existing railway line from Castlerock to Kulem, subject to the condition that the project proponent will comply with all the conditions imposed by the Chief Wildlife Warden and will implement the approved animal passage plan. Further, the annual

compliance certificate of the stipulated conditions has to be submitted by the State Chief Wildlife Warden to the Government of India.

7. The objections raised by Goa Foundation were that the project involves diversion of significant area of forest land and sanctuary land and would entail further destruction of the Sanctuary/National Park and wildlife. According to Goa Foundation, a large number of trees will have to be felled within the Bhagwan Mahaveer Wildlife Sanctuary and also, the integrity of the protected area and wildlife sanctuary would be severely affected. The Goa Foundation also contended before the CEC that assessment of proper impact on wildlife habitat and biodiversity was never carried out before NBWL approved the project.

8. RVNL stated before the CEC that the objections raised by Goa Foundation are without merit. According to RVNL, doubling of railway line would be a gamechanger in the economic development of the south western part of India. The proposed doubling track would be at a distance on 5.8 meters from the existing track except certain deviations at the entry and exit points of the tunnels. To minimize

disturbance only 51.48 hectares of land has been requisitioned for diversion. CEC was informed by RVNL that the new alignment (doubling track) will have 7 major and 74 minor bridges and 23 tunnels in toto. As major portion of the project of doubling 342 km railway line was completed, the approval granted by NBWL should not be interfered with.

9. After examining the information furnished by the RVNL relating to the necessity of doubling of the 26 km railway line from Caslterock to Kulem which passes through the protected area and wildlife sanctuary, CEC was of the opinion that the additional line is not likely to add either to the turnaround time of the train or loco or to the speed of the train. In view of the difficult gradient, the movement of traffic requires 5 engines – 3 in the front end to pull the train and 2 behind to push the train up. Taking note of the fact that the movement of traffic from Murmagao Port in Goa and Krishnapatnam Port in Andhra Pradesh to Hospet / Bellary region in Karnataka was unidirectional from a period between 2013-2014 and 2020-2021 it was observed by the CEC that more than 80% of the rakes were returning empty. Further, taking note of the fact that 92% of the goods transported from Goa to

Karnataka through the line was coal and while observing that the export of iron ore from Karnataka as a policy was discouraged, CEC did not recommend the doubling of the railway line. A perusal of the report of the CEC would show that the passenger traffic on the said line was also examined.

10. The report of the CEC also referred to the observations made by the National Tiger Conservation Authority ('NTCA') in its site appraisal report regarding diversion of forest land for doubling of railway line in the Kali Tiger Reserve, falling in the Karnataka part of the project. The problems which would arise in the doubling of railway line due to long rainy season resulting in delay in completion of the project, disposal of excavated earth from cutting of trees and tunnel construction and need for special measures required in view of the topographical and access related issues as pointed out by the NTCA have been highlighted in the report of the CEC. The impact of the doubling of the railway line which would have a detrimental effect on Wildlife was also noticed by NTCA according to which the project would severely impact Wildlife in the region. The NTCA suggested that an independent and detailed assessment of the cumulative

impact of the project on wildlife for the entire stretch from Tinaighat to Kulem should be undertaken. The CEC further observed in the report that the Standing Committee of NBWL did not obtain any specific recommendation on mitigation measures from the Wildlife Institute of India, Dehradun before approving the proposal in respect of the Goa portion.

11. Taking into account the aforementioned submissions and suggestions, the CEC recommended to this Court that the permission granted by the Standing Committee of the NBWL should be revoked in view of the following: -

i) the doubling of the existing rail line will not have any positive impact on the gradient and curvature of the new line and it will operate at the same inefficient level as the existing line and will be operating with all the existing severe limitations on running of trains 'Up the Ghat' and 'Down the Ghat' as that of the existing line (Ref para 13);

ii) railway line was laid in 1890s when there was no other rail connectivity available to Goa and at present the Konkan railway line gives excellent connectivity to Northern and Southern parts of India.

iii) the Murmagoa Port Trust authorities as well as the project proponents have submitted that consequent to changes in government policy to discourage

import of coal there will be reduction in the coal import which currently forms more than 90 % of goods traffic from Murmagoa Port;

iv) *the estimate of projected increase in traffic from Karnataka to Goa furnished by the railways is not based on facts and is without any sound reasoning and as statistics shows mostly includes empty rakes returning to Goa and that despite the change in policy on import of coal the same has not been reflected in the projected traffic from Goa to Karnataka;*

v) *the current movement of goods to Murmagoa Port constitutes only about 20% of the rakes going out from Goa and which leaves a huge unutilised capacity in the existing single line itself;*

vi) *there are alternative ports like Krishnapatnam in east coast available with better rail connectivity for transport of goods to and from industrial belt of northern Karnataka and the capacity of the same is yet to be fully utilised;*

vii) *the opening of the forest cover in the ecologically sensitive Western Ghats along the existing line is likely to invite light demanding invasive weeds like Mikania species which colonise fast in the open area and spread to the nearby forest canopy and destroy the natural forest;*

viii) *the increased number of trains and wider openings through the ecologically sensitive Western Ghats for laying the track will further fragment the habitat and will make the movement of wildlife including arboreal animals across the railway line much more difficult and dangerous and is bound to result in high casualties amongst the wildlife;*

ix) *the railway line cuts across the most important animal corridor in the Western Ghat landscape between Karnataka and Maharashtra through the State of Goa and will be a serious impediment for movement of long ranging animals like tiger and elephant.*

x) *the approval by NBWL to go ahead with the project has been granted in respect of Goa Portion without first obtaining the advice of NTCA as statutorily required under section 38 (0) of the Wild Life (Protection) Act, 1972;*

xi) *there is a gross under estimation of the requirement of virgin forest land for implementation of the project in as much as the project implementation will require additional land for road connectivity, temporary dumping of the excavated earth/blasted stone and parking of heavy machinery and as such during the stage of implementation of the project much more than 120.875 Ha of estimated forest land is likely to be destroyed; and*

xii) the connectivity between Goa and Karnataka is being strengthened/improved by way of 4 laning of NH-4A along the same route and by development of new airport.

12. We have heard Mr. A.D.N. Rao, learned Senior Counsel for the CEC, Mr. Prasant Bhushan, learned counsel for Goa Foundation, Mr. Sanjay Upadhyay, learned counsel for RVNL and Mr. Balbir Singh, learned counsel for Ministry of Railways. Mr. Rao supported the report of the CEC and recommended the revocation of permission granted by NBWL to the doubling of railway line from Castlerock to Kulem for the following reasons:

a) The section capacity of entire route was not being fully utilized by the railways due to severe restrictions owing to the alignment and the gradient of the tough terrain. The capacity utilization was below 50% due to severe constraints in the Ghat Section.

b) In the proposed second line, there would be 23 tunnels which would fall outside the existing right of way and would tantamount to formation of a new line altogether.

c) Even according to RVNL, the traffic on Konkan Railway is frequently dislocated due to landslides, breaches etc. especially during the rainy season. Permitting construction of a second line between Kulem and Caslterock where the gradient is as high as 1:37 would only invite grave danger of a further disaster.

d) A third railway line from Toranagallu Junction to Krishnapattam Port would be a better alternative than construction of a second line connecting Murmagao Port to the industrial belt in Bellary district.

e) The disposal of muck deposit which is likely to be generated in huge quantities would pose a difficult challenge for the Railways and for which adequate arrangement has not been kept in place by RVNL.

f) The opinion of NTCA was not taken by the NBWL even when the Goa part of the project includes an important tiger reserve and where instances of killing of tigers have been recorded.

g) Preservation of biodiversity and conservation of the eco-system of the western ghats outweighs the need for doubling the railway line.

13. On behalf of RVNL, the project proponent, it was submitted that the project is super critical and it was sanctioned in 2011-2012. Connectivity to Goa and the hinterlands was taken into account by the Ministry of Railways before the project was sanctioned. All statutory clearances have been obtained before undertaking the doubling of the railways line. Stage II clearance was granted by the Ministry of Environment and Climate Change on 12.04.2022 for undertaking doubling in the State of Karnataka and Goa. It was further stated that the Bhagwan Mahaveer Wildlife Sanctuary has not been notified as a Tiger Reserve under the Wildlife Protection Act, 1972 and therefore there was no need for RVNL to approach the NTCA seeking a report for the Goa part of the Project. It was contended by RVNL that the CEC failed to take into account that observations of the NTCA pertained to Danderi Wildlife Sanctuary in the State of Karnataka and not with respect to the project falling within the State of Goa. The project

proponent attempted to justify the project by contending that State-of-the-Art wildlife mitigation measures have been adopted by the project proponent, implementation of which is being monitored by the experts. RVNL also brought to the notice of this Court a Comprehensive Biodiversity and environment assessment undertaken by the Indian Institute of Science, Bengaluru for Castlerock and Kulem stretch in August, 2017. It assured this Court that Rail over-bridges and Road under-bridges would be constructed for crossing of animals. This Court was further informed that there has not been a single instance of death of any major animal, including tiger, since 1890s on the railway track. An assurance was given to this Court that there would be no additional disturbance to the forest area as no separate pathway would be constructed in the forest area for transportation of goods and machinery which would be carried out in the most ecologically efficient manner. Only such of those trees which are essential will be felled and compensatory afforestation would be taken up. Permission was sought from NBWL for sanction of doubling of railway line from Castlerock to Kulem after examining all the other

alternatives. RVNL contended that the material that was submitted was not taken into consideration by the CEC before recommending for revocation of the license granted by the NBWL for doubling of the railway line.

14. According to Mr. Bhushan, learned counsel for the Goa Foundation, the approval of NTCA is mandatory as per Section 38 (O)(g) of the Wildlife Protection Act, 1972. He submitted that Bhagwan Mahaveer Wildlife Sanctuary is an important tiger corridor which needs to be protected. The NTCA approval submitted for the State of Karnataka has to be considered and a cumulative study has to be taken up for protected species in Goa as well. Goa Foundation apprehends that the doubling of railway line would increase the dangers of severe environmental degradation owing to massive cutting of trees which would then have an adverse impact on the climate and temperature of the protected area apart from habitat discontinuities, impact on species etc. The further complaint of Goa Foundation is that advice of Wildlife Institute of India was not obtained for Goa portion for doubling of railway line. Goa Foundation alleged that the increase in the annual requirement of the coal and other raw

material was not adequately demonstrated by RVNL. It stated that there is no basis for the contention of RVNL that it anticipates increase of container traffic on the line. Goa Foundation recommended acceptance of the report of CEC and revocation of the permission granted by the NBWL for doubling the railway line between Castlerock and Kulem.

15. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, Courts are required to balance development needs with the protection of the environment and ecology[1]. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity[2]. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to

1 T.N. Godavarman Thirumulpad v. Union of India (2008) 2 SCC 222
2 A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999) 2 SCC 718

preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment[3].

16. In ***Vellore Citizens' Welfare Forum v. Union of India[4],*** this Court held that the 'Precautionary Principle' is an essential feature of the principle of 'Sustainable Development'. It went on to explain the precautionary principle in the following terms: -

> *(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.*
>
> *(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
>
> *(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.*

3 Indian Council for Enviro-Legal Action v. Union of India (1996) 5 SCC 281
4 (1996) 5 SCC 647

17. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential[5].

18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest[6]. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment.

5 A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Other (1999) 2 SCC 718
6 M.C Mehta v. Union of India (2004) 12 SCC 118

19. Keeping in mind the aforesaid principle of law on sustainable development and precautionary principle, we proceed to examine whether the recommendation made by the CEC should be accepted. Doubling of the railway line between Castlerock to Kulem is a part of the critical project undertaken by the Ministry of Railways in the year 2011 in public interest. Whether the justification for doubling the railway line would outweigh the environmental concerns raised by the Goa Foundation which found favour with the CEC is the question that falls for determination. We are of the view that the CEC is right in its conclusion that the proposal for the doubling of the railway line between Castlerock to Kulem by NBWL should be revoked for the reasons as stated hereinafter.

20. The Ministry of Railways or RVNL have failed to provide any substantial basis for the requirement of doubling the railway line by addressing the impact which it would have on the habitat and the damage that it would cause to the environment. RVNL attempted to justify its decision on the ground that there is a likelihood that the requirement of coal

and other raw materials would be doubled in the future and the proposed project is very much essential for transportation of said goods. Reliance was placed by RVNL on a Parliamentary clarification dated 02.02.2022 and a letter of the Ministry of Power, Government of India to argue that there is no likelihood of shift from coal-based economy. We are in agreement with the CEC that the requirement of coal can be met by utilising the Krishnapatnam port which is a viable alternative for transportation of coal. The said suggestion would also prevent the degradation of the Western Ghats. Even according to RVNL, traffic on Konkan railway line is frequently dislocated due to landslides, breaches etc. especially during the rainy season. In view of the difficult terrain having sharp curves and gradient as high as 1:37 for the proposed project, any further construction would invite a great disaster in the sensitive areas of Western Ghats as well.

21. The landscape in which the railway line is proposed to pass is an important tiger corridor, connecting the three States of Goa, Karnataka and Maharashtra. The report prepared by the NTCA regarding the viability of such a

railway line is only for the Karnataka part of the project. No such report has been prepared for the Goa part. The Standing Committee of NBWL ought to have sought for a report from NTCA on the Goa part of the project before granting approval for the doubling of the railway line between Castlerock to Kulem in view of the fact that it is an important tiger corridor where instances of killing of tigers have been reported. We find merit in the recommendations made by the CEC regarding the necessity of taking into account the actual loss of the wildlife habitat by the construction activity for the doubling of the railway line for which heavy machinery would have to be moved and crusher units will have to be established for dumping construction material. The point raised by RVNL before CEC regarding the enhancement of connectivity between Goa and Karnataka by the proposed project was rightly rejected on the ground that there was a proposal for 4-lanning of National Highway-4 along with the same route and augmentation of air connectivity to Goa. We are unable to uphold the approval granted to the project by NBWL on the basis of the assurance given by RVNL that all possible

mitigation measures shall be taken to protect bio-diversity and eco system of the protected areas under the Wildlife Protection Act, 1972. RVNL has proposed to undertake impact assessment, thorough study of long-term impact, planning of various mitigation measures for safeguarding interest of wildlife habitat and flora and fauna. RVNL has also proposed to construct under-passes/overbridges at identified locations of track crossings by wild animals to ensure safe crossings of tracks by animals. CEC in its report submitted that it was noticed during the site visit that it was not possible to construct any sort of under-passes at the said location. Therefore, the mitigation measure proposed to be undertaken by RVNL is not clear. The report prepared by Indian Institute of Science, Bengaluru, “Biodiversity and Environmental Assessment of proposed doubling of railway track between Kulem and Castlerock in Goa-Karnataka” relied upon by RVNL was considered by CEC which observed that according to NTCA the study report of Indian Institute of Science, Bengaluru lacks in critical assessment, particularly of project impacts. NTCA further suggested that there should be an independent and detailed assessment of the

cumulative impact of the project for the entire stretch from Tinaighat to Kulem.

22. It is necessary that there should be a detailed study and analysis of the impact of the proposed project on the bio-diversity and ecological system of the protected areas under wildlife sanctuary. A detailed study undertaken by NTCA on the viability of the project for the Goa part is essential in view of the Bhagwan Mahaveer Wildlife Sanctuary being an important tiger corridor. Even according to NTCA, an independent and detailed assessment of the cumulative impact of the project for the entire stretch from Tinaighat to Kulem has to be undertaken. The impact of the increase of section capacity by 2.5 times than by doubling the railway line in comparison to the single line along with increased mobility on wildlife problems in terms of sound pollution, vibrations etc. has not been taken into account by the Standing Committee of NBWL while recommending the project. Assessment of the impact which the project would have on the environment, especially in the protected area and wildlife sanctuary taking into account all the major factors such as the impact on the habitat, species, climate,

temperature etc. caused due to felling of trees (not only for the laying of railway tracks but also for the secondary works such as setting up machinery, disposal of waste, and putting in place various mitigation measures etc.), movement of trains, human-wildlife interactions would have to be strictly undertaken before the project is considered by the NBWL. There is also no credible supporting data for the projections that are given by RVNL relating to the traffic between Karnataka and Goa project for the period 2022-2023 and 2030-2031 and there is no explanation regarding the projected traffic for the next 4-5 years which is required for the completion of the construction of the project. Such data, projections and speculations will have to be supported by an independent and credible source before undertaking any kind of construction activity in the Western Ghats which is world's eight hotspots of biological diversity._

23. For the foregoing reasons, we uphold the conclusion of the CEC and revoke the approval granted by the Standing Committee of NBWL for doubling the railway line between Castlerock to Kulem. However, this will not preclude the RVNL to carry out a detailed analysis on the impact of the

proposed project on the biodiversity and ecology of the protected areas under the wildlife sanctuary as indicated hereinabove and then submit a fresh proposal to the Standing Committee of NBWL which shall be considered in accordance with law.

24. For the aforementioned reasons, the above Interlocutory Applications are disposed of.

.....J.
[L. NAGESWARA RAO]

.....J.
[B. R. GAVAI]

.....J.
[ANIRUDDHA BOSE]

New Delhi,
May 09, 2022.

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ANNEXURE 8

F. No. 11-37/2016-FC
Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira ParyavaranBhawan,
Jor Bagh Road, Aliganj,
New Delhi-110003.
Dated: 5th December, 2017

To

The Principal Secretary (Forests),
All States / Union Territories.

Sub: Applicability of Forest (Conservation) Act, 1980 and Wildlife (Protection) Act, 1972 on the forest land falling in the Right of Way (RoW) of the Railway in light of the provisions of the Railway Act, 1989 - regarding.

Sir,

Kindly refer to the above mention subject. The questions have been raised by the Ministry of Railway on various occasions regarding applicability of the Forest (Conservation) Act, 1980 (FC Act in short) and Wildlife (Protection) Act, 1972 (WPA in short) and it has been insisted upon by the Railway that the FC Act and WPA will not be applicable to the forest land falling in the right of ways of the Railway and the Railways has the power to acquire the forest land and divert the forest land falling in the ROW under section 11 (a) of the Railway Act of 1989.

2. In the instant case of gauge conversion [Meter Gauge (MG) to Broad Gauge (BG)] of existing Akola-Khandwa railway line, constructed during 1955-59, was referred to MoEF & CC by the Ministry of Railway stating that the FC Act and WPA will not be applicable in ROW of Railways. The existing MG railway track passes through the Reserved Forest and Melghat Tiger Reserve which is among the first nine tiger reserves notified in 1973-74 under the Project Tiger.

3. The MoEF& CC has been repeatedly clarifying that the FC Act and WPA will be applicable for diversion of forest land for non-forestry purpose irrespective of the ownership of the forest land and the forest land owned by the State cannot be acquired and transferred to Railways under section 11 (a) of the Railway Act of 1989 without following provisions of FC Act and WPA.

4. It is informed that the matter has been examined in the Ministry and the legal opinion of the Ministry of Law and Justice (MoLJ) was also obtained on the applicability of the Forest (Conservation) Act, 1980 on the use of forest land falling in the Right of Way (ROW) of the Railway for construction of new railway line and conversion of gauge from existing Meter Gauge (MG) to Broad Gauge (BG) and applicability of provisions of the Railway Act, 1989. The MoLJ has opined on 28.09.2017 that "though the railway administration has the power under section 11 (a) of the Act of 1989, to construct or maintain a railway on any land, but it appears that for so assignment of forest land (other than the railways land) falling in the ROW to the railway by way of lease or otherwise may attract the provisions of the Act of 1980."

5. It is important to note that the 'forest' land has been defined by the Hon'ble Supreme Court in the T.N. Godavarman Thirumulkpad Vs Union of India & Ors on 12th December, 1996 whereby it has been clarified that the word "forest" must be understood according to its dictionary meaning irrespective of its ownership.

> *" The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and fore matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest: must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof."*

6. In other words, even 'forest land' owned by the railways is also 'forest' and cannot be put to non-forestry use by the railways itself without the approval of the Central Government as provided in the section 2 of the Forest (Conservation) Act, 1980. In addition to this, for the use of forest land declared as 'Protected Areas' and areas falling under the Eco Sensitive Zone (ESZ), the approval of State Board of Wildlife and National Board of Wildlife (NBWL) is required.

7. The Ministry is of considered opinion that the railways has the right of ways for construction and maintenance of railways lines for public welfare and may acquire land from the owners of the land but this right is also subject to the other statutory provisions and regulations. If a forest land cannot be dispensed with for the railway track in view of the conservation of forest and wildlife, then the Railway cannot acquire forest land under section 11 of the Railway Act, 1980 without the prior approval under FC Act, 1980. The State Government also cannot assign and allot forest land, which is not the property of the Railways, to Railways without the prior approval of the Ministry under section 2 of the FC Act, 1980 and the NBWL if the area falls in the protected area notified under the provisions of the Wildlife (Protection) Act, 1972. However, any actual diversion of forest land for non-forestry purpose already done before 25.10.1980 will not attract provisions of FC Act and this position was clarified by the Ministry vide guideline dated 13.10.2016 though clearance under WPA will be required if Protected areas are involved.

8. Railway projects passing through the notified Eco-sensitive Zone or located within 10 km. radius of Wildlife Sanctuary (WLS) / National Parks (NP) and Tiger Reserves (TR) are not required to obtain wildlife clearance from National Board of Wildlife as these projects do not need Environment Clearance. However, railway projects passing through the areas linking one protected area or Tiger Reserve with another protected area or Tiger Reserve diversion cannot be allowed for ecologically unsustainable use, except in public interest with

the approval of NBWL on the advice of National Tiger Conservation Authority as provided for under sec 38(O)(1)(g) of Wildlife (Protection) Act, 1972.

Railway projects passing through Wildlife Sanctuary / National Parks / Tiger Reserves amount to destruction of habitat within the meaning of Section 29, Section 35(6) and Section 38(O)(1)(g) of Wildlife (Protection) Act, 1972 as amended upto date are required to seek the approval of National Board of Wildlife (NBWL). The need of seeking approval for railway projects passing through a Wildlife Sanctuary is in pursuance of Supreme Court Order dated 09.05.2002 in Writ Petition (Civil) No. 337 of 1995 (Centre for Environmental Law, WWF-India Vs. Union of India & Ors.).

9. In light of the above it is further clarified that the use of forest land, irrespective of ownership, by the railways for construction of new railway track and other facilities and for gauge conversion of existing railways requiring fresh diversion of forestland on either side of the existing Meter Gauge (MG), as assessed by the State Forest Department, falling in the ROW of railway, will require forest clearance under the provisions of Forest (Conservation) Act, 1980.

This issues with the approval of competent authority.

Yours faithfully,

05/12/17
(Naresh Kumar)
Dy. Inspector General of Forests

Copy to:

1. All PCCFs States/UTs
2. All Regional Office, MOEF&CC
3. Secretary, M/o Railways, New Delhi
4. Nodal Officers (FCA) O/o the PCCFs All States/UT
5. All IGFs/Dir(ROHQ)/All AIGFs(FC), MOEF&CC New Delhi
6. PPS to Secretary, MOEF&CC, New Delhi
7. PPS to DGF&SS, MOEF&CC New Delhi
8. PPS to IGF(FC)
9. Guard File

05/12/17
(Naresh Kumar)
Dy. Inspector General of Forests

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92	चिकालिम	21	1	अंश	0.0040
93	चिकालिम	82	1	अंश	0.2770
				कुल	**0.2810**
94	वास्को सिटी	129	16	अंश	0.0072
95	वास्को सिटी	129	22	अंश	0.0190
96	वास्को सिटी	129	23	अंश	0.0206
97	वास्को सिटी	129	24	अंश	0.0200
98	वास्को सिटी	129	25	अंश	0.0310
99	वास्को सिटी	129	26	अंश	0.0420
100	वास्को सिटी	129	27	अंश	0.2352
101	वास्को सिटी	129	28	अंश	0.0158
102	वास्को सिटी	129	29	अंश	0.0080
103	वास्को सिटी	147	1	अंश	0.1200
				कुल	**0.5188**
				मजोर्दा – वास्को **(B)** कुल योग	**2.7463**
				कुल योग **(A+B)**	**6.0177**

[फा. सं. 271/नि/बें.छा/2018-19/भूमी/1219]

के. सी. स्वामी, मुख्य प्रशासनिक अधिकारी/
निर्माण, बेंगलूर छावनी

MINISTRY OF RAILWAYS

[South Western Railway (Constuction Organisation)]

NOTIFICATION

Bengaluru, the 4th March, 2020

S.O. 1042(E).—In exercise of the powers conferred by sub-Section (1) of Section 20A of the Railway Act, 1989 (24 of 1989) (hereinafter referred to as the said Act), the Central Government after being satisfied that for the public purpose, the land, the brief description of which has been given in the Schedule annexed hereto, is required for the execution of the Special Railway Project, namely, Hospet-Hubli-Tinaighat –Vasco-da-Gama doubling, in the State of GOA, hereby declares its intention to acquire such land:

Any person interested in the said land may, within Thirty days from the date of publication of this notification in the Official Gazette, raise objection to the acquisition and use of such land for the aforesaid purpose under sub-section (1) of Section 20D of the said Act;

Every such objection shall be made to the competent authority, namely, Incharge Land Acquisition Officer Deputy Collector and Sub-Divisional Officer, Mormugao, Goa in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections;

Any order made by the competent authority under sub-section (2) of Section 20D of the said Act shall be final;

The land plans and other details of the land covered under this notification are available and can be inspected by the interested person at the aforesaid Office of the competent authority.

SCHEDULE

Brief description of the land to be acquired, with or without structure, falling with in the proposed Special Railway Project of Hospet-Hubli-Tinaighat –Vasco-da-Gama doubling in the State of Goa.

Name of the District- South Goa

Sr.No.	Village	R. Thana No.	Plot No.	Part/Full	Area (in Hectare)
(1)	(2)	(3)	(4)	(5)	(6)
Kulem-Madgaon Section					
1	Kalem	103	2	Part	0.0608
2	Kalem	151	0	Part	0.1819
3	Kalem	152	1	Part	0.0123
				Total	**0.2550**
4	Curchorem	9	1	Part	0.0167
5	Curchorem	61	2	Part	0.4900
6	Curchorem	69	1	Part	0.0100
7	Curchorem	69	2	Part	0.0375
8	Curchorem	69	3	Part	0.0045
9	Curchorem	69	4	Part	0.0138
10	Curchorem	69	5	Part	0.0282
11	Curchorem	74	0	Part	0.0980
12	Curchorem	75	0	Part	0.0498
13	Curchorem	76	1	Part	0.0448
14	Curchorem	213	1	Part	0.0024
15	Curchorem	214	1	Part	0.0115
16	Curchorem	214	2	Part	0.0002
17	Curchorem	253	1	Part	0.0115
				Total	**0.8189**
18	Cacora	511	1	Part	0.0191
19	Cacora	513	1	Part	0.0097
				Part	**0.0288**
20	Sanvordem	61	1	Part	0.0755
21	Sanvordem	64	3	Part	0.0120
22	Sanvordem	82	1	Part	0.0125
23	Sanvordem	82	5	Part	0.0210
				Total	**0.1210**
24	Assolda	35	1	Part	0.0260
				Total	**0.0260**
25	Guirdolim	122	5	Part	0.8400
26	Guirdolim	269	1	Part	0.0400
27	Guirdolim	269	2	Part	0.1530
28	Guirdolim	270	1	Part	0.0364
29	Guirdolim	270	21	Part	0.0025
30	Guirdolim	270	22	Part	0.0510
31	Guirdolim	271	1	Part	0.0906
32	Guirdolim	271	2	Part	0.1460
33	Guirdolim	272	1	Part	0.1005

34	Guirdolim	273	1	Part	0.0368
35	Guirdolim	273	2	Part	0.0800
36	Guirdolim	273	3	Part	0.0770
				Total	**1.6538**
37	Sao Jose De Areal	77	1	Part	0.0265
38	Sao Jose De Areal	77	2	Part	0.0765
				Total	**0.1030**
39	Davorlim	42	32	Part	0.0185
40	Davorlim	78	2	Part	0.0070
41	Davorlim	78	3	Part	0.0070
42	Davorlim	78	12	Part	0.0080
43	Davorlim	78	14	Part	0.0114
44	Davorlim	78	15	Part	0.0115
45	Davorlim	78	16	Part	0.0085
46	Davorlim	80	16	Part	0.0710
				Total	**0.1429**
47	Margao city	247	178	Part	0.0191
48	Margao city	266	9	Part	0.0002
49	Margao city	266	14	Part	0.0383
50	Margao city	266	24	Part	0.0280
51	Margao city	266	25	Part	0.0364
		Total			**0.1220**
				Kulem-Madgaon (A) Grand Total	**3.2714**
		Madgaon- Vasco Section			
52	Majorda	109	3	Part	0.0275
53	Majorda	110	4	Part	0.0845
54	Majorda	110	8	Part	0.0050
55	Majorda	114	15	Part	0.0065
				Total	**0.1235**
56	Cansaulim	65	3	Part	0.0193
57	Cansaulim	65	4	Part	0.0285
58	Cansaulim	65	5	Part	0.0270
59	Cansaulim	65	8	Part	0.0190
60	Cansaulim	65	9	Part	0.0095
61	Cansaulim	65	10	Part	0.0103
62	Cansaulim	65	12	Part	0.0021
63	Cansaulim	66	9	Part	0.0089
64	Cansaulim	66	11	Part	0.0153
65	Cansaulim	66	12	Part	0.0146
66	Cansaulim	94	1A	Part	0.0350
67	Cansaulim	96	0	Part	0.0250
68	Cansaulim	97	1A	Part	0.0175
69	Cansaulim	97	2	Part	0.0090
70	Cansaulim	99	2	Part	0.0350

71	Cansaulim	99	4	Part	0.0275
72	Cansaulim	99	5	Part	0.0235
73	Cansaulim	100	7	Part	0.0455
74	Cansaulim	100	8	Part	0.0030
75	Cansaulim	101	9	Part	0.0310
76	Cansaulim	104	0	Part	0.0390
				Total	**0.4455**
77	Pale	14	1	Part	0.0010
78	Pale	14	2	Part	0.1050
79	Pale	14	3	Part	0.0050
80	Pale	14	5	Part	0.0025
81	Pale	18	1	Part	0.2590
82	Pale	18	2	Part	0.1700
83	Pale	18	3	Part	0.0050
				Total	**0.5475**
				Part	
84	Issorcim	1	9	Part	0.0235
85	Issorcim	3	0	Part	0.3390
86	Issorcim	8	1	Part	0.1650
				Total	**0.5275**
87	Dabolim	3	1	Part	0.0755
88	Dabolim	5	1	Part	0.0575
89	Dabolim	64	73	Part	0.0726
90	Dabolim	64	73A	Part	0.0155
91	Dabolim	64	169	Part	0.0814
				Total	**0.3025**
92	Chicalim	21	1	Part	0.0040
93	Chicalim	82	1	Part	0.2770
				Total	**0.2810**
94	Vasco City	129	16	Part	**0.0072**
95	Vasco City	129	22	Part	**0.0190**
96	Vasco City	129	23	Part	**0.0206**
97	Vasco City	129	24	Part	**0.0200**
98	Vasco City	129	25	Part	**0.0310**
99	Vasco City	129	26	Part	**0.0420**
100	Vasco City	129	27	Part	**0.2352**
101	Vasco City	129	28	Part	**0.0158**
102	Vasco City	129	29	Part	**0.0080**
103	Vasco City	147	1	Part	0.1200
				Total	**0.5188**
				Majorda- Vasco (B) Grand Total	**2.7463**
				Grand Total (A+B)	**6.0177**

[F. No. 271/CN/BNC/2018-19/Land/1219]

K. C. SWAMI, Chief Administrative Officer (Construction),
Bengaluru Cant

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IN THE COURT OF DY. COLLECTOR/SDO, MORMUGAO, AND COMPETENT AUHTORITY MORMUGAO TALUKA VASCO DA GAMA, GOA

Phone: 0832-2512688 **email id: sdm-mormugao.goa@nic.in**

No.16/2/2020/LA-01/DYC Dated: 19/05/2021

Arlindo De Souza.
Issorcim-Kholl P.O. Cansaulim, ... Objector

V/S.

The General Manager.
Rail Vikas Nigam Ltd. Block A-3rd Floor.
5 & 6 L. & L Building. Near Mathany
Saldanha Administraive Building,
Margao Goa 403601 ..... Applicant

JUDGEMENT

This judgement and order shall dispose off the application dated 08/07/2021 filed by the Applicant

The above named objector has filed an objection in refrence to the substance of the Notification published in the daily newspaper dated 19/06/2020 there by objecting the Land Acquisition for Doubling Hospect-Hubballi-Tinaighat-Vasco in Goa State.

The objections raised by the Objector were as follows:-

1. The doubling of the Tinaighat-Vasco Track was sanctioned in the financial year 2010/11 With the intervention of then Member of parliament Shri Narendra Sawaikar, the Regional Manger had publically declared NO double tracking of lines beyong Majorda. Further in year 2019 Notices were published for acquistion of land for public purpose project and the June 2020 Notice referes to acquisiton of land for a special project. Further acquisition under sub-section (1) of Section 20A of chapter IV of the Railways Act 1989 (24 of 1989) was intitated.

2. The acquisiton notice published in June 2020 does not display the name of the property owner, consequently, property owners who do not reside in Goa are unaware of the Acquisition proceeding and deprived of the opportunity provided by law to raise objection.

DY. COLLECTOR SUB DIVL OFFICER, MORMUGAO

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3. The acquisition plan on display is incorrect. The area between the railway line and the area demarcated for acquisiton belongs to them and not of the Railways. The old documents which are in their possession confirm the property upto railway line belongs to them.
4. The several coal trains transport 23 tons per minute which is 3800 tons coal per train and 16 such coal train of coal passing through the village has created havoc to the people. The coal pollution with toxic dust hanging in the air like a shroud over each wagon has caused respiratory problems like bronchitis, sinusitis and pulmonary disorder.
5. There were no rail over bridges at village Velsao-Pale railway crossing due to this several school going children and patients have to wait for longer time at crossing as the schools and Government Health Centre is within the 30 meters proximity of the tracks, and already lost life's of several children and villagers who are forced to cross the track to go to school or health centre and once the new track is built the misery will add and they will have to wait for longer periods at railway crossing gate at Velsao-Pale, Cansaulim-Arossim and other crossing along the proposed line.
6. The special project of doubling track from Hospet-Hubli-Tinaghat-Vasco Da Gama is not for public purpose but to benefit only JSW as this track will facilitate coal transportation from JSW's berths 5A and 6A at Mormugao Port Trust (MPT) to JSW group's steel and captive power plant at Toranagallu in Bellary Disrict. Karnataka.
7. The objector also adopted the issue of maintainbility of the project raised by the Counsel C. A. Fereria in case of Bruno Periera.

RVNL has replied to the objections of the objector wherein it is submitted that the doubling project is a special Railway project of National importance and the same was notified after due process taking into consideration the pros & cons of its advantage, disadvantages and its impact on the socio & economical life of the general population of the region and also after taking into the consideration that the overall benefits of the project which outweigh the cost and disadvantages and therefore would help in the Nation building.

- Two objections were disposed as Rail Vikas Nigam Limited submitted that the survey numbers were erroneously notified and therefore a corrigendum has already been proposed by their office for substituting the land.

- One objector raised his objection of losing his house. The same was disposed as Rail Vikas Nigam Limited submitted that the house will not be demolished as per the plan prepared and the right of way if any would not be blocked but same will be maintained even after doubling project is completed.

- One objector has raised the issue of the ownership of existing Railway track land. The objector claimed the land belongs to him, however, he had not produced any documents. Further, he had also objected on the doubling project citing issue such as coal transportation, since deciding the project is beyond the scope of this Competent Authority and same was dismissed.

- Thirty Objections received were regarding opposition to the special Railway project stating there is no public purpose, village will be destroyed, Notification issued during the Pandemic, no proper studies, no cost v/s Benefit analysis, coal transportation opposed by all Goans, illegal use of colonial Railways Act etc. and demanding revoking the notification and stoping coal transportation, these objections were dismissed since the revoking of notification and deciding on coal transportation is beyond the scope of this Competent Authority.

Further, the Rail Vikas Nigam Limited has sent a corrigendum dated 05/04/2021 stating that the acquisition of land with regards to survey no. 94/1A of village Cansaulim & 78/14 of village Davorlim which was issued in the notification is not required. Further the area in survey no. 14/2 of village Pale is corrected as per Form I & XIV.

In view of above, the following land parcels which are notified as per the Notification No.S.O.1042(E) dated 04/03/2020 are recommended for acquisition.

SCHEDULE

Description of the lands notified.

Sr. No.	Village	Survey No.	Sub-Div. No.	Part/Full	Area (in Hectare)
		Kulem-Madgaon Section			
1.	Kalem	103	2	Part	0.0608
2.	Kalem	151	0	Part	0.1819
3.	Kalem	152	1	Part	0.0123
				TOTAL	**0.2550**
4.	Curchorem	9	1	Part	0.0167
5.	Curchorem	61	2	Part	0.4900
6.	Curchorem	69	1	Part	0.0100
7.	Curchorem	69	2	Part	0.0375
8.	Curchorem	69	3	Part	0.0045
9.	Curchorem	69	4	Part	0.0138
10.	Curchorem	69	5	Part	0.0282
11.	Curchorem	74	0	Part	0.0980
12.	Curchorem	75	0	Part	0.0498
13.	Curchorem	76	1	Part	0.0448
14.	Curchorem	213	1	Part	0.0024
15.	Curchorem	214	1	Part	0.0115
16.	Curchorem	214	2	Part	0.0002
17.	Curchorem	253	1	Part	0.0115
				TOTAL	**0.8189**
18.	Cacora	511	1	Part	0.0191
19.	Cacora	513	1	Part	0.0097
				TOTAL	**0.0288**
20.	Sanvordem	61	1	Part	0.0755
21.	Sanvordem	64	3	Part	0.0120
22.	Sanvordem	82	1	Part	0.0125
23.	Sanvordem	82	5	Part	0.0210
				TOTAL	**0.1210**
24.	Assolda	35	1		0.0260
				TOTAL	**0.0260**
25.	Guirdolim	122	5	Part	0.8400
26.	Guirdolim	269	1	Part	0.0400
27.	Guirdolim	269	2	Part	0.1530
28.	Guirdolim	270	1	Part	0.0364
29.	Guirdolim	270	21	Part	0.0025
30.	Guirdolim	270	22	Part	0.0510
31.	Guirdolim	271	1	Part	0.0906
32.	Guirdolim	271	2	Part	0.1460
33.	Guirdolim	272	1	Part	0.1005
34.	Guirdolim	273	1	Part	0.0368
35.	Guirdolim	273	2	Part	0.0800
36.	Guirdolim	273	3	Part	0.0770
				TOTAL	**1.6538**
37.	Sao Jose De Areal	77	1	Part	0.0265
38.	Sao Jose De Areal	77	2	Part	0.0765
				TOTAL	**0.1030**
39.	Davorlim	42	32	Part	0.0185

40.	Davorlim	78	2	Part	0.0070
41.	Davorlim	78	3	Part	0.0070
42.	Davorlim	78	12	Part	0.0080
43.	Davorlim	78	15	Part	0.0115
44.	Davorlim	78	16	Part	0.0085
45.	Davorlim	80	16	Part	0.0710
				TOTAL	**0.1315**
46.	Margao city	247	178	Part	0.0191
47.	Margao city	266	9	Part	0.0002
48.	Margao city	266	14	Part	0.0383
49.	Margao city	266	24	Part	0.0280
50.	Margao city	266	25	Part	0.0364
				TOTAL	**0.1220**
			GRAND TOTAL (KULEM-MADGAON) (A)		**3.2600**
		Madgaon-Vasco Section			
51.	Majorda	109	3	Part	0.0275
52.	Majorda	110	4	Part	0.0845
53.	Majorda	110	8	Part	0.0050
54.	Majorda	114	15	Part	0.0065
				TOTAL	**0.1235**
55.	Cansaulim	65	3	Part	0.0193
56.	Cansaulim	65	4	Part	0.0285
57.	Cansaulim	65	5	Part	0.0270
58.	Cansaulim	65	8	Part	0.0190
59.	Cansaulim	65	9	Part	0.0095
60.	Cansaulim	65	10	Part	0.0103
61.	Cansaulim	65	12	Part	0.0021
62.	Cansaulim	66	9	Part	0.0089
63.	Cansaulim	66	11	Part	0.0153
64.	Cansaulim	66	12	Part	0.0146
65.	Cansaulim	96	0	Part	0.0250
66.	Cansaulim	97	1A	Part	0.0175
67.	Cansaulim	97	2	Part	0.0090
68.	Cansaulim	99	2	Part	0.0350
69.	Cansaulim	99	4	Part	0.0275
70.	Cansaulim	99	5	Part	0.0235
71.	Cansaulim	100	7	Part	0.0455
72.	Cansaulim	100	8	Part	0.0030
73.	Cansaulim	101	9	Part	0.0310
74.	Cansaulim	104	0	Part	0.0390
				TOTAL	**0.4105**
75.	Pale	14	1	Part	0.0010
76.	Pale	14	2	Part	0.0775
77.	Pale	14	3	Part	0.0050
78.	Pale	14	5	Part	0.0025
79.	Pale	18	1	Part	0.2590
80.	Pale	18	2	Part	0.1700
81.	Pale	18	3	Part	0.0050
				TOTAL	**0.5200**

82.	Issorcim	1	9	Part	0.0235
83.	Issorcim	3	0	Part	0.3390
84.	Issorcim	8	1	Part	0.1650
				TOTAL	**0.5275**
85.	Dabolim	3	1	Part	0.0755
86.	Dabolim	5	1	Part	0.0575
87.	Dabolim	64	73	Part	0.0726
88.	Dabolim	64	73A	Part	0.0155
89.	Dabolim	64	169	Part	0.0814
				TOTAL	**0.3025**
90.	Chicalim	21	1	Part	0.0040
91.	Chicalim	82	1	Part	0.2770
				TOTAL	**0.2810**
92.	Vasco City	129	16	Part	0.0072
93.	Vasco City	129	22	Part	0.0190
94.	Vasco City	129	23	Part	0.0206
95.	Vasco City	129	24	Part	0.0200
96.	Vasco City	129	25	Part	0.0310
97.	Vasco City	129	26	Part	0.0420
98.	Vasco City	129	27	Part	0.2352
99.	Vasco City	129	28	Part	0.0158
100.	Vasco City	129	29	Part	0.0080
101.	Vasco City	147	1	Part	0.1200
				TOTAL	**0.5188**
			GRAND TOTAL (MAJORDA-VASCO) (B)		**2.6838**
			GRAND TOTAL (A+B)		**5.9438**

The report under section 20E (1) of the Railways Act, 1989 has been submitted for perusal and further necessary action.

Yours faithfully,

(**Sachin Desai**)
Dy. Collector/SDO & SDM
& Competent Authority
Mormugao, Vasco da Gama.

To,
The O/O Chief Administrative Officer (Construction),
18, Millers Road, Bangalore 560046

Copy submitted to:- The Collector & District Magistrate, South Goa District,

Copy to:- The General Manager (Projects), Rail Vikas Nigam Limited, Block8, 5th floor, L & L Building, Near Mathany Saldanha Building, Margao-Goa.

MINISTRY OF RAILWAYS

[South Western Railway (Constuction Organisation)]

NOTIFICATION

Bengaluru, the 31st May, 2021

S.O. 2162(E). In exercise of the power conferred by sub-section (1) of Sec. 20E of the Railway Act,1989 (24 of 1989) the Central Govt., after being satisfied with the report of the Competent Authority & Dy. Collector of Mormugoa-Vasco submitted vide his Office communication No. 16/2/2020/LA-01/DYC/795 dated 20/05/2021, hereby declares that the lands described and show in the following Schedule and notified under S. O. 1042(E) dated 04.03.2020 under sub-sec. (1) of Section 20A of the Act, should be acquired for executing the Special Railway Project namely doubling of Vasco da Gama-Kulem section of Tinaighat-Vasco da Gama in the State of GOA.

SCHEDULE

Description of the lands notified

Sl.No.	Village	R. Thana No.	Plot No.	Part/Full	Area (in Hectare)
(1)	(2)	(3)	(4)	(5)	(6)
1	Kalem	103	2	Part	0.0608
2	Kalem	151	0	Part	0.1819
3	Kalem	152	1	Part	0.0123
				Total	**0.2550**
4	Curchorem	9	1	Part	0.0167
5	Curchorem	61	2	Part	0.4900
6	Curchorem	69	1	Part	0.0100
7	Curchorem	69	2	Part	0.0375
8	Curchorem	69	3	Part	0.0045
9	Curchorem	69	4	Part	0.0138
10	Curchorem	69	5	Part	0.0282
11	Curchorem	74	0	Part	0.0980
12	Curchorem	75	0	Part	0.0498
13	Curchorem	76	1	Part	0.0448
14	Curchorem	213	1	Part	0.0024
15	Curchorem	214	1	Part	0.0115
16	Curchorem	214	2	Part	0.0002
17	Curchorem	253	1	Part	0.0115
				Total	**0.8189**
18	Cacora	511	1	Part	0.0191
19	Cacora	513	1	Part	0.0097
				Total	**0.0288**
20	Sanvordem	61	1	Part	0.0755
21	Sanvordem	64	3	Part	0.0120
22	Sanvordem	82	1	Part	0.0125
23	Sanvordem	82	5	Part	0.0210
				Total	**0.1210**
24	Assolda	35	1	Part	0.0260
				Total	**0.0260**
25	Guirdolim	122	5	Part	0.8400
26	Guirdolim	269	1	Part	0.0400
27	Guirdolim	269	2	Part	0.1530
28	Guirdolim	270	1	Part	0.0364
29	Guirdolim	270	21	Part	0.0025
30	Guirdolim	270	22	Part	0.0510
31	Guirdolim	271	1	Part	0.0906
32	Guirdolim	271	2	Part	0.1460
33	Guirdolim	272	1	Part	0.1005
34	Guirdolim	273	1	Part	0.0368
35	Guirdolim	273	2	Part	0.0800
36	Guirdolim	273	3	Part	0.0770
				Total	**1.6538**
37	Sao Jose De Areal	77	1	Part	0.0265
38	Sao Jose De Areal	77	2	Part	0.0765
				Total	**0.1030**
39	Davorlim	42	32	Part	0.0185
40	Davorlim	78	2	Part	0.0070

41	Davorlim	78	3	Part	0.0070
42	Davorlim	78	12	Part	0.0080
43	Davorlim	78	15	Part	0.0115
44	Davorlim	78	16	Part	0.0085
45	Davorlim	80	16	Part	0.0710
				Total	**0.1315**
46	Margao city	247	178	Part	0.0191
47	Margao city	266	9	Part	0.0002
48	Margao city	266	14	Part	0.0383
49	Margao city	266	24	Part	0.0280
50	Margao city	266	25	Part	0.0364
				Total	**0.1220**
			Grand Total (KULEM-MADGAON) (A)		**3.2600**
Madgaon –Vasco Section					
51	Majorda	109	3	Part	0.0275
52	Majorda	110	4	Part	0.0845
53	Majorda	110	8	Part	0.0050
54	Majorda	114	15	Part	0.0065
				Total	**0.1235**
55	Cansaulim	65	3	Part	0.0193
56	Cansaulim	65	4	Part	0.0285
57	Cansaulim	65	5	Part	0.0270
58	Cansaulim	65	8	Part	0.0190
59	Cansaulim	65	9	Part	0.0095
60	Cansaulim	65	10	Part	0.0103
61	Cansaulim	65	12	Part	0.0021
62	Cansaulim	66	9	Part	0.0089
63	Cansaulim	66	11	Part	0.0153
64	Cansaulim	66	12	Part	0.0146
65	Cansaulim	96	0	Part	0.0250
66	Cansaulim	97	1A	Part	0.0175
67	Cansaulim	97	2	Part	0.0090
68	Cansaulim	99	2	Part	0.0350
69	Cansaulim	99	4	Part	0.0275
70	Cansaulim	99	5	Part	0.0235
71	Cansaulim	100	7	Part	0.0455
72	Cansaulim	100	8	Part	0.0030
73	Cansaulim	101	9	Part	0.0310
74	Cansaulim	104	0	Part	0.0390
				Total	**0.4105**
75	Pale	14	1	Part	0.0010
76	Pale	14	2	Part	0.0775
77	Pale	14	3	Part	0.0050
78	Pale	14	5	Part	0.0025
79	Pale	18	1	Part	0.2590
80	Pale	18	2	Part	0.1700
81	Pale	18	3	Part	0.0050
				Total	**0.5200**

82	Issorcim	1	9	Part	0.0235
83	Issorcim	3	0	Part	0.3390
84	Issorcim	8	1	Part	0.1650
				Total	**0.5275**
85	Dabolim	3	1	Part	0.0755
86	Dabolim	5	1	Part	0.0575
87	Dabolim	64	73	Part	0.0726
88	Dabolim	64	73A	Part	0.0155
89	Dabolim	64	169	Part	0.0814
				Total	**0.3025**
90	Chicalim	21	1	Part	0.0040
91	Chicalim	82	1	Part	0.2770
				Total	**0.2810**
92	Vasco City	129	16	Part	0.0072
93	Vasco City	129	22	Part	0.0190
94	Vasco City	129	23	Part	0.0206
95	Vasco City	129	24	Part	0.0200
96	Vasco City	129	25	Part	0.0310
97	Vasco City	129	26	Part	0.0420
98	Vasco City	129	27	Part	0.2352
99	Vasco City	129	28	Part	0.0158
100	Vasco City	129	29	Part	0.0080
101	Vasco City	147	1	Part	0.1200
				Total	**0.5188**
			GRAND TOTAL (MAJORDA-VASCO) (B)		**2.6838**
			GRAND TOTAL (A+B)		**5.9438**

[F. No. 271/CN/BNC/Land/1219]

DESH RATAN GUPTA, Chief Administrative Officer (Construction)

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21.	उतोरड़ा	2	7	अंश	0.0022
22.	उतोरड़ा	2	9	अंश	0.0181
23.	उतोरड़ा	2	9-C	अंश	0.0032
24.	उतोरड़ा	2	12	अंश	0.0050
25.	उतोरड़ा	4	3	अंश	0.0155
26.	उतोरड़ा	4	8	अंश	0.0080
				कुल	**0.0686**
27.	चिकालिम	83	1	अंश	0.0408
				कुल	**0.0408**
28.	काकोरा	513	1	अंश	0.0072
29.	काकोरा	514	22	अंश	0.0014
30.	काकोरा	514	23	अंश	0.0246
				कुल	**0.0332**
				कुल योग	**0.4941**

[फा. सं. 271/सीएन/बीएनसी/2023-24/लैंड/1219]

पी. वी. वी. सत्यनारायण, उप मुख्य अभियंता/सामान्य (निर्माण)

MINISTRY OF RAILWAYS

[South Western Railway (Construction Organization)]

NOTIFICATION

Bengaluru, the 2nd May, 2023

S.O. 2114(E).—In exercise of the powers conferred by sub-section (1) of Section 20A of the Railway Act, 1989 (24 of 1989) (hereinafter referred to as the said Act), the Central Government after being satisfied that for the public purpose, the land, the brief description of which has been given in the Schedule annexed hereto, is required for the execution of the Special Railway Project, namely, Hospet-Hubli-Tinaighat-Vasco-da-Gama doubling, in the State of GOA, hereby declares its intention to acquire such land:

Any person interested in the said land may, within Thirty days from the date of publication of this notification in the Official Gazette, raise objection to the acquisition and use of such land for the aforesaid purpose under sub-section (1) of Section 20D of the said Act;

Every such objection shall be made to the competent authority, namely, Incharge Land Acquisition Officer/Deputy Collector and Sub-Divisional Officer, Mormugao, Goa in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections;

Any order made by the Competent Authority under sub-section (2) of Section 20D of the said Act shall be final; The land plans and other details of the land covered under this notification are available and can be inspected by the interested person at the aforesaid Office of the Competent Authority.

SCHEDULE

Brief description of the land to be acquired, with or without structure, falling within the proposed Special Railway project of Hospet-Tinaighat-Vasco-da-Gama doubling in the State of Goa.

Name of the District: South Goa

Description of the lands notified

Sr. No.	Village	R. Thana No.	Plot No.	Part/Full	Area (in Ha.)
1.	Calem	104	1	Part	0.0694
2.	Calem	104	2	Part	0.0650
3.	Calem	106	1	Part	0.0748
4.	Calem	107	1	Part	0.0185
5.	Calem	107	2	Part	0.0466
6.	Calem	107	3	Part	0.0016
7.	Calem	107	5	Part	0.0210
8.	Calem	108	1	Part	0.0103
9.	Calem	108	2	Part	0.0098
10.	Calem	108	3	Part	0.0101
11.	Calem	108	4	Part	0.0071
				TOTAL	**0.3342**
12.	Majorda	121	1	Part	0.0034
13.	Majorda	121	2	Part	0.0041
14.	Majorda	121	3	Part	0.0045
15.	Majorda	121	6	Part	0.0053
				TOTAL	**0.0173**
16.	Utorda	1	6	Part	0.0101
17.	Utorda	2	2	Part	0.0009
18.	Utorda	2	3	Part	0.0025
19.	Utorda	2	5	Part	0.0009
20.	Utorda	2	6	Part	0.0022
21.	Utorda	2	7	Part	0.0022
22.	Utorda	2	9	Part	0.0181
23.	Utorda	2	9-C	Part	0.0032
24.	Utorda	2	12	Part	0.0050
25.	Utorda	4	3	Part	0.0155
26.	Utorda	4	8	Part	0.0080
				Total	**0.0686**
27.	Chicalim	83	1	Part	0.0408
				Total	**0.0408**
28.	Cacora	513	1	Part	0.0072
29.	Cacora	514	22	Part	0.0014
30.	Cacora	514	23	Part	0.0246
				Total	**0.0332**
				Grand Total	**0.4941**

[F. No. W.271/CN/BNC/2023-24/Land/1219]

P. V.V. SATYANARAYANA, Dy. Chief Engineer/General (Construction)

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

ANNEXURE 12

From,

1. Shri Gokuldas Guno Khutkar,
   s/o late Guno Purso Khutkar,
   r/o H.No. 22, Khutkarwada Kaley, Sanguem-Goa;
2. Mr. Raghoba Chandrakant Khutkar,
   s/o late Chandrakant Raghoba Khutkar
   r/o H.No. 41 , Khutkarwada Kaley, Sanguem-Goa;
3. Mr. Rohan Purshottam Khutkar
   s/o late Purshottam Guno Khutkar,
   r/o H.No. 561, Khutkarwada Kaley, Sanguem-Goa;
4. Prakash Vithoba Khutkar;
   s/o late Vithoba Purso Khutkar,
   r/o H.No. 389 , Khutkarwada Kaley, Sanguem-Goa;
5. Mr. Ramesh Kusta Khutkar,
   s/o late Kusta Purso Khutkar,
   r/o H.No. 42 , Khutkarwada Kaley, Sanguem-Goa;

Date: 31/05/2023

To,
The Deputy Collector and SDM, Marmugao,
Vasco-da-Gama, Marmugao-Goa.

Ref: 16/2/LA-01/2023/SO-IV/DYSC dated 12/05/2023

sub: Reply to the Notice dated 12/05/2023

The undersigned persons are natives and residents of village of Kaley, Taluka Sanguem-Goa.

The undersigned persons are exclusive owners in possession of ancestral property namely "Dacti-Xell" situated at village of Kaley, comprising of of cashew tree plantation, coconut grooves and other trees and is described in the Land Registration Office of Quepem under no. 4219 and bearing Old Cadastral No. 133 and is presently surveyed under survey nos. 101/1, 102/1 to 102/6 (part), 103/1 (part), 103/2 (part), 104/1

OFFICE OF THE
DY. COLLECTOR
(SDO)
MORMUGAO
Inward No.
Date 1/6/2023
Time 8091

to 104/12, 105/1 to 105/4 and 106/1 of village of Kaley/Kaley and is bounded as under:

On the East: by Paddy field 'Torly-Xella' of Vithoba Custo Cuntcar and other Cuntcars of said Kaley/Kaley or Property of Ladu V. Khutkar and others;

On the West: by the new afaramanto of Laximona Foti Cuntcar and Peak of the hillock without special name or Property of Vassu Khutkar Ladu V Khutkar and others;

On the North: by the Railway Line and beyond lies the property of Cesar Furtado;

On the South: by Peak of hillock of 'Sanatana Dongri' or property of the Forest Department.

The said ancestral property has devolved upon the undersigned persons through inheritance and is in exclusive possession and cultivator possession of the family of the undersigned persons for more than 150 years. The property is now enjoyed as per cultivator occupation and mutual division amongst the undersigned owners.

The undersigned states that the Railway line is laid on the northern edge of the property and Railway Line is shown as northern boundary of their ancestral property "Dacti-Xell" in the Land Registration under No. 4219. ***The Land Registration No. 4219 is annexed herewith.***

The Old Cadastral Survey No. 133 also shows the Railway Line as a northern boundary of the property Dacti-Xella belonging to the undersigned person. ***The Plan of Old Cadastral Survey No. 133 is annexed hereto.***

the undersigned hereto annexes a copy of *Order dated* 03/08/1998 *passed by the Deputy Collector of Quepem in Title case No. LRC/Title/3/1990.*

The Railways further acquired portion of land of the property "Dacti-Xell" for line Conversion form Meter Gauge to Broad Gauge from Survey No. 104/2 to the extends of 28 square meters, Survey No. 103/2 to the extends of 2500 square meters and Survey No. 103/3 to the extends of 400 square meters. The undersigned states that they are not being compensated for the area acquired till date.

The undersigned are in possession and occupation of the entire remaining property adjoining the Railway line.

The South Western Railways acquired additional land under survey no. 103/2 (part) of village Kaley, Taluka Sanguem, square meters, forming part of the property "Dacti-Xell" for Railway Line doubling project in the year 2019 and the said line doubling project is in progress. The undersigned persons are not being compensated for the said acquisition, neither the conveyancing formalities to transfer the acquired land in the name of the Railways has been completed till date.

The undersigned desirous to bring to the notice of Your Honor that the South Western Railways has been fraudulently using portion of land owned by the undersigned, without making any land acquisition and without any authority and persimmon or consent of the undersigned as owners of the property for the purpose of loading and unloading of material such as Iron Ore, Bauxite and other minerals and matters by misleading and misrepresenting the undersigned till date.

The illegal dumping and loading of the highly toxic Ores such as Bauxite ore and Iron ore has been since badly affecting the remaining land of the undersigned persons making it completely unyielding and unusable.

To bring to Your Honor's notice the illegalities of the South Western Railways the undersigned hereto annexes a ***Survey Report with Plan dated 10/03/2023*** **showing area encroached by the South Western Railways beyond the acquired area by way of land acquisition, whereby the Railways without authority and acquisition through proper procedure have been fraudulently using portion of land admeasuring 3430 square meters of Survey No. 106/1 of Village Kaley and land admeasuring 2880 square meters of Survey No. 104/1 forming part of the property Dacti-Xella. The initial area acquired from Survey No. 104/2 was 28 square meters and has illegally encroached to the extent of 2892 square meters. Total portion illegally used by the South Western Railway is 9202 square meters at loco without entering into any kind of agreement of contract and/or providing any compensation for the land illegally used and also for the damage caused to the cultivation and the land at large of the undersigned.**

The Contractors of the South Western Railways without any authority, permission from the village Panchayat of Kaley or any other Departments trespassed in the ancestral property on the northern side and in absence of the undesigned persons installed a new railway track and concreted the portion illegally encroached as shown in the Report and Plan annexed, on the garb that the said area comes under the 'Railway yard'. Various complaints were made against the South Western Railway annexed hereto for perusal of Your Honor

including the Notice issued to the General Manager of the South Western Railways, The Divisional Manager of the South Western railways and the Station Master of Kaley railway Station. The undersigned neither their advocate received any reply to the said notices. Notice annexed hereto.

The South Western Railways are dubious and have forcefully entered into the property of the undersigned persons. the South western Railways are trying to grab the property of the undersigned as marked and shown in the *Survey Report with Plan annexed* and dispossess the undersigned persons of the land, their rights and benefits.

The South Western Railways is attempting to further acquire the land of the undersigned person beyond its illegal encroachment made with forceful concreting and installation of new railway tracks. The present acquisition notice is only for further grabbing and exploiting the property of the undersigned persons.

The undersigned therefore objects to the present acquisition of the land as given in the Public Notice dated 12/05/2023 with respect to Survey No. 106/1, 104/1 and 104/2 of village Kaley, Taluka Sanguem as it is unnecessary

The project of line doubling of the South Western Railways at loco is in progress and is completed till the water way or say till the survey no. 103/3 of village Kaley.

It may be noted that the double track laying including the earlier line Conversion form Meter Gauge to Broad Gauge was implemented without acquiring area in Survey No. 106/1 of village Kaley, Taluka Sanguem.

The present acquisition shall only amount to loss and damages to the undersigned persons in terms of loss of property and it shall also cover the illegalities of the South Western Railways.

The South Western Railways have never acquired any land or part thereof for the purpose of "Railway Yard" from the undersigned persons or their predecessors in title till date.

It is humbly prayed that a surveyor be appointed from your office or from the Department of Land and Survey, on urgent basis to inspect the site at loco to locate the property acquired so far by the Land Acquisition Department of Goa for facilitating the South Western Railways for laying of line doubling in Survey No. 106/1, 104/1 and 2, 103/1, 2 and 3 of village Kaley and to demarcate the property acquired by the South Western Railway Authority and to remove the encroachment of the South Western railways on our private land.

It is further requested by the undersigned to direct the South Western Railways to vacate the land illegally encroached and is being used by the South Western Railways without consent of the undersigned for dumping and loading of the ores and materials. The Railways be strictly warned not to interfere with the private property of the undersigned with fraudulent intention of grabbing the same for their unauthorized use which is damaging the cultivation and land of undersigned persons.

I am writing to your office as you are the final authority to facilitate the South Western Railways or the Central Government by acquiring private land and providing compensation for the land acquired. The South Western Railways cannot encroach on the private

land of any induvial, as in this case, under the pretext of land being acquired by your office for their illegal use or exploitation.

your urgent attention and immediate actions are required and requested by the undersigned persons as being tremendously aggrieved and the damages caused to the undersigned persons shall be irreparable and irreversible.

Thanking You,

Yours faithfully,

1. Shri Gokuldas Guno Khutkar

2. Mr. Raghoba Chandrakant Khutkar

3. Mr. Rohan Purshottam Khutkar

4. Mr. Prakash Vithoba Khutkar

5. Mr. Ramesh Kusta Khutkar

IN THE COURT OF THE DEPUTY COLLECTOR AND SDO AND COMPETENT AUTHORITY, MORMUGAO, TALUKA VASCO-DA-GAMA, GOA

Ref. No. 16/2/LA-01/2023/10/SO-IV/DYSC/1714

State/South Western Railways ----- Applicant

V/s

Shri. Prabhakar S. Shet Vernekar ----- Respondent

APPLICATION FOR DROPPING OF PROCEEDINGS UNDER SECTION 20 OF WILD LIFE PROTECTION ACT, 1972.

MAY IT PLEASE YOUR HONOUR:-

That Ministry of Railways (South Western Railway (Construction Organization) had issued notification on 02/05/2023, stating that the land which has been described in the Schedule annexed to the notification is required for the execution of the special railway project, namely, Hospet-Hubli-Tinaighat-Vasco-Da-Gama doubling project in the state of Goa.

That upon going through the notification issued by Ministry of Railways (South Western Railway (Construction Organization), dated 02/05/2023, it can be gathered that the property which The South Western Railway intends to acquire i.e. the property bearing survey No. 107/1, 2, 3 and 5 are coming under the

--2/-

jurisdiction of Bhagwan Mahavir Wild Life Sanctuary and National Park.

That the aforesaid properties, which the South Western Railway intends to acquire is already notified under Section 18 of Wild Life Protection Act, 1972.

That it is settled preposition of law that upon issuance of notification under Section 18, no right shall be acquired in, no or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

That in view of above, and in view of Section 20 of the Wild Life (Protection), Act, 1972, no aforesaid property can be acquired by the South Western Railway.

It is therefore prayed, acquisition proceedings initiated by this Office based on notification dated 02/05/2022 be dropped as per Section 20 of the Wild Life (Protection), Act, 1972.

Place: Vasco-da- Gama-Goa
Date: 16/01/2024

_____

Adv. the Respondent

AFFIDAVIT

I, Shri. Prabhakar S. Shet Vernekar, major of age, son of late Sadanand Shet Vernekar, married, business, resident of H. No. 77,

--3/-

::3::

Thorlemol, Kalay, Sanguem, Goa, do hereby solemnly affirm on oath that the contents of above paras are true and correct to my own knowledge and no part of it is false.

Solemnly affirmed at Vasco Da Gama, Mormugao, Goa on this 16th day of January, 2024.

_____

Deponent

Identified by:-

IN THE COURT OF THE DY.COLLECTOR/SDO& COMPETENT AUTHORITY, MORMUGAO TALUKA, VASCO DA GAMA, GOA.

Mobile No. 8767114825 email id: sdm-mormugao.goa@nic.in

Case No. 16/2/LA-01/2023/12/SO-IV/DYC/1717

South Western Railways
Through The General Manager
Rail Vikas Nigam Ltd.
Margao – goa.

.....**Applicant**

V/S

1. Shri. Gokuldas Guno Khutkar
2. Shri. Raghoba Chandrakant Khutkar
3. Shri. Rohan Purshottam Khutkar
4. Shri. Prakash Vithoba Khutkar
5. Shri. Ramesh Kusta Khutkar
   All resident of Khutkarwada, Kalay,
   Sanguem – Goa...

.....**Objectors**

ORDER

This order shall dispose off the application dated 16/01/2024 filed by the Objectors for dropping of proceedings as per section 20 of Wild Life Protection Act, 1972 in Case No. 16/2/LA-01/2023/12/SO-IV/DYC/1717.

The objectors in the present matter have filed an application dated 16/01/2024 wherein it is submitted that as per the notification dated 02/05/2023 issued by the Ministry of Railways [South Western Railways (Construction Organization)], it can be gathered that properties which the SWR intends to acquire bearing Survey Nos. 104/1, 104/2 & 106/1 of Kalay village are coming under the jurisdiction of Bhagwan Mahavir Wild Life Sanctuary.

It is also submitted on behalf of the Objectors that the aforesaid properties which the SWR intends to acquire are already notified under Section 18 of the Wild Life Protection Act, 1972 and that it is settled preposition of law that upon issuance of notification under section 18 and in terms of section 20 of the Wild Life Protection Act, 1972, no aforesaid properties can be acquired by the South Western Railways and therefore prayed before this authority to drop the proceeding initiated on the basis of notification dated 02/05/2023 as per section 20 of the Wild Life Protection Act 1972.

Upon filing of the application dated 16/01/2024, this authority heard both the representative of the applicant as well as Advocate for the Objectors.

The advocate appearing on behalf of Objectors contended that the acquisition proceeding initiated by this office based on the notification dated 02/05/2023 be dropped as per Section 20 of the Wild Life Protection Act, 1972.

The representative of the applicant submitted that the Ministry of Railways has already acquired properties in the said Kalay Village under the Railways Act, 1989 vide its earlier notification dated 04/03/2020 and also as per Policy on Procurement of Land under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the execution of special project namely Hospet-Hubli-Tinaighat-Vasco-Da-Gama doubling and hence the present application dated 16/01/2024 should not be entertained.

It is also submitted by the representative of the applicant that this Hon'ble court is not the competent authority appointed under the Wild Life Protection Act, 1972 and hence lacks jurisdiction to try and decide application dated 16/01/2024.

Considering the above, this authority is of the opinion that the present application dated 16/01/2024 filed by the objectors under Wildlife Protection Act and this authority is not the competent authority under the said act. Further merely because the property comes under the wild life sanctuary, there is no bar on the acquisition of the same under the Railways Act and applicant/SWR can apply for necessary permissions with the forest department after completing the acquisition process and before execution of the project work. It is also observed that properties in Kalay Village have been acquired earlier by SWR vide their notification dated 04/03/2020 under the Railways Act 1989. Finally the land proposed for acquisition by way of present notification is adjoining to the existing railway track/line and same is proposed for executing special railway project for public purpose as per section 20A of the Railways Act 1989.

In view of above observation the application dated 16/01/2024 filed by the Objectors under section 20 of Wild Life Protection Act 1972 is hereby dismissed.

Pronounced in the Open court.

Given under my hand and seal of this Court on this day on 16th day of February 2024.

DY. COLLECTOR & SUB DIVISIONAL OFFICER * MORMUGAO *

(Bhagwant Anay Karmali)
Dy.Collector/SDO & Competent Authority,
Mormugao, Vasco-da-Gama, Goa

CERTIFIED COPY

Date on which copy applied on 16/02/2024
Date is given for taking delivery 19/02/2024
Date on which copy ready 23/02/2024
Date on which copy delivered 23/02/2024
Compared by : SHA
Checked by :
Copy Fee Rs. 20/- (Rs. Twenty Rupees)
Paid Vide Receipt No. 283463 Dtd. 23/2/24

Dy. Collector / SDO
Mormugao, Vasco

IN THE COURT OF THE DY.COLLECTOR/SDO& COMPETENT AUTHORITY, MORMUGAO TALUKA, VASCO DA GAMA, GOA.

Mobile No. 8767114825 email id: sdm-mormugao.goa@nic.in

Case No. 16/2/LA-01/2023/10/SO-IV/DYC/1714

South Western Railways
Through The General Manager
Rail Vikas Nigam Ltd.
Margao – goa.

.....Applicant

V/S

Shri. Prabhakar Sadanand Shet Vernekar
R/o. H. No. 77, Tholemol, Kalay, Sanguem, Goa.

.....Objector

ORDER

This order shall dispose off the application dated 16/01/2024 filed by the Objector for dropping of proceedings as per section 20 of Wild Life Protection Act, 1972 in Case No. 16/2/LA-01/2023/12/SO-IV/DYC/1717.

The objector in the present matter have filed an application dated 16/01/2024 wherein it is submitted that as per the notification dated 02/05/2023 issued by the Ministry of Railways [South Western Railways (Construction Organization)], it can be gathered that properties which the SWR intends to acquire bearing Survey Nos. 104/1, 104/2 & 106/1 of Kalay village are coming under the jurisdiction of Bhagwan Mahavir Wild Life Sanctuary.

It is also submitted on behalf of the Objector that the aforesaid properties which the SWR intends to acquire are already notified under Section 18 of the Wild Life Protection Act, 1972 and that it is settled preposition of law that upon issuance of notification under section 18 and in terms of section 20 of the Wild Life Protection Act, 1972, no aforesaid properties can be acquired by the South Western Railways and therefore prayed before this authority to drop the proceeding initiated on the basis of notification dated 02/05/2023 as per section 20 of the Wild Life Protection Act 1972.

Upon filing of the application dated 16/01/2024, this authority heard both the representative of the applicant as well as Advocate for the Objector.

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The representative of the applicant submitted that the Ministry of Railways has already acquired properties in the said Kalay Village under the Railways Act, 1989 vide its earlier notification dated 04/03/2020 and also as per Policy on Procurement of Land under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the execution of special project namely Hospet-Hubli-Tinaighat-Vasco-Da-Gama doubling and hence the present application dated 16/01/2024 should not be entertained.

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In view of above observation the application dated 16/01/2024 filed by the Objector under section 20 of Wild Life Protection Act 1972 is hereby dismissed.

Pronounced in the Open court.

Given under my hand and seal of this Court on this day on 16th day of February 2024.

(Bhagwant Anay Karmali)
Dy.Collector/SDO & Competent Authority,
Mormugao, Vasco-da-Gama, Goa.

DY. COLLECTOR & SUB DIVISIONAL OFFICER ★ MORMUGAO ★

CERTIFIED COPY

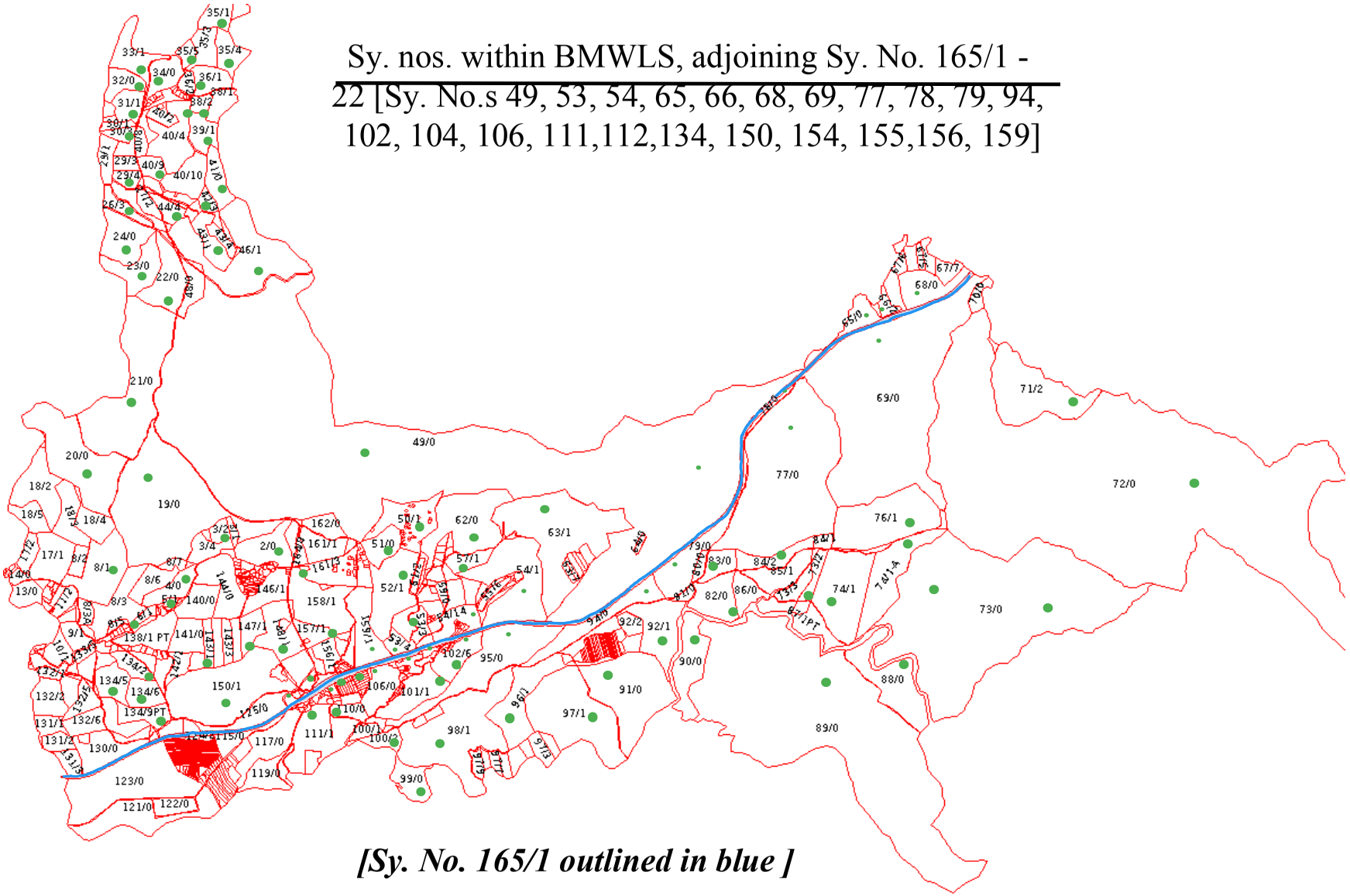
Date on which copy applied on 16/02/2024
Date is given for taking delivery 19/2/2024
Date on which copy ready 23/02/2024
Date on which copy delivered 28/02/2024
Compared by : J
Checked by : J
Copy Fee Rs. 20/- (Rs. Twenty Rupees)
Paid Vide Receipt No. 282463 Dtd. 23/2/24

Dy. Collector / SDO
Mormugao, Vasco

ANNEXURE 15

Bhunaksha Map of Calem village – Areas falling with BMWLS marked with a green dot

Sy. nos. within BMWLS, adjoining Sy. No. 165/1 - 22 [Sy. No.s 49, 53, 54, 65, 66, 68, 69, 77, 78, 79, 94, 102, 104, 106, 111,112,134, 150, 154, 155,156, 159]



[Sy. No. 165/1 outlined in blue]

ANNEXURE 16

IN THE COURT OF INSPECTOR OF SURVEY & LAND RECORDS, RECORDS OF RIGHTS (SOUTH) MARGAO-GOA

Case No. ISLR/MAR/RRS/PROML/50/2023

South Western Railway .....Applicant
Through ,
The General Manager (Civil),
Railways Vikas Nigam Ltd.

V/S

1. Shri. Gokuldas Guno Khutkar, ...Respondents
2. Shri. Umaknat Gokuldas Khutkar,
3. Smt. Avisha Umaknat Khutkar,
4. Shri. Anand Gokuldas Khutkar,
5. Smt. Alisha Anand Khutkar,

   All residents of H.No.22, Khutkarwada

   Kaley Sanguem-Goa;
6. Shri. Prakash Vithoba Khutkar,
7. Smt. Prajwala Prakash Khutkar,

   Both Residents of H.No.389, Khutkarwada,

   Kaley Sanguem-Goa
8. Shri. Raghoba Chandrakant Khutkar,
9. Smt. Supriya Raghoba Khutkar

   Both Residents of H.No.41, Khutkarwada

   Kaley Sanguem-Goa
10. Shri. Ramesh Kusta Khutkar

    Residents of H.No.28, Khutkarwada

    Kaley Sanguem-Goa
11. Smt. Mathura Purshottam Khutkar

12.Shri.Rohan Purshottam Khutkar,
Residents of H.No.561, Khutkarwada
Kaley Sanguem-Goa

JUDGMENT

This Judgment & Order shall dispose off the case of Survey & Promulgation of the Records of Rights pertaining to land of South Western Railway in Calem Village in Sanguem Taluka.

The brief facts of the case are that land of the Revenue Village of Calem in Sanguem Taluka, through which the South Western Railway passes does not have any Survey numbers & hence Form I & XIV of the said properties is not available in the records.

The Government of Goa, vide Notification bearing No. 22/1/Re-pre/2023-RD/673 dated 25/05/1974 duly published on the Official Gazette Govt. of Goa Series II, No. 8 dated 26/05/2023 had directed to carry out survey and to prepare Record of Rights in respect of lands presently in occupation of the South Western Railway in terms of Section 56 of the Goa Land Revenue Code 1968.

Accordingly Director of Settlement and Land Records vide Order dated 29/05/2023 directed the respective taluka Inspector of Survey & Land Records of Salcete, Mormugao, Quepem, Sanguem and Dharbandora to carry out the survey of Lands of all the Revenue villages through which the South Western Railway passes and prepare Form III in terms of Rule 6 (I) of Goa Land Revenue (Record of Rights & Register of Cultivators) Rules 1969.

As per the above directions from Directorate of Settlement & Land Records, Survey was conducted and Draft of the Index of Land has been prepared under Rule 30 of said Rules by Inspector of Survey & land Records of Sanguem wherein Survey No. 165/1 of Calem Village has been allotted to the land pertaining to South Western

Railway. These records were then forwarded to Inspector of Survey &Land Records, Record of Rights (South) for Promulgation.

Thereafter said Plan and Draft Index of Land were kept open for Public Inspection in the office of Superintendent of Survey & Land Records, South. Office of Mamlatdar of Sanguem & Dharbandora Taluka, Village Panchayat of Calem & Caranzol of Sanguem Taluka and Public Notice regarding same was published in the local newspaper dated 30/09/2023 calling upon any interested persons to submit in writing, within 30 days from the date of Publication of the notice their objection, if any, towards the entry made in the said draft with documentary evidence.

Upon publication of notice, Gokuldas Gunu Khutkar and others filed objections in response to the public notice of Promulgation initiated by this office. Reply dated 29/04/2024 was filed by the respondents. The Respondents have submitted that they are the owners of the property known as "Dhakti Xet" located in the village Calem which is currently surveyed under survey Nos. 106/1, 104/1, 104/2 & Others.

It is stated that, said properties are their ancestral properties and Respondents names are entered vide Mutation entry No. 46 and that South Western Railways have no right of any nature to the aforesaid property. Further, it is stated that on the Northern side of their property, is a railway track beyond which lies the property of Mr. Cesar Furtado and the same is clearly depicted on the Government Survey Plan. Respondents stated that at the time of formation of new survey numbers 106/1, 104/1 and 104/2 of Village Calem, the Cadastral Plan bearing Survey No. 133 was not considered and as such portion of Survey No. 106/1,104/1 and 104/2 was left out from the respective survey numbers of village Kalay and was wrongly depicted as part of South Western Railways. The Respondents further stated that they had filed a Title Case bearing No. LRC/Title/3/1990 against Government of Goa which was disposed off by an Order dated 03/08/1998 whereby Mamlatdar of Sanguem was called upon to delete the name of Government of Goa from the Occupant column of survey No. 106/1 of Kaley village and record the name of respondents as occupants therein. They went on to submit that property bearing Survey No. 104/1, 102/1 to 6, 104/1 to 12,

105/1 to 4 and 106/1 to 3 of Kalay Village are in their possession for last more than 12 decades and only upon verifying that Survey No. 106/1 had been wrongly recorded in the name of the Government, that they filed Title Case and got recorded their name in the occupant column of ROR. It is stated that the Railways has not produced single document to establish that they are the owners in possession of the said Land and hence prayed that the notice issued by this office be withdrawn and the Land Records including survey plan be maintained as is how and where basis.

Then the matter was fixed for arguments on 03/06/2024. At time of the arguments respondents objected to the letter of authority submitted by the representative of the South Western Railway stating the authorization is only for representating South Western Railway at the land objection proceedings before the Deputy Collector of Mormugao. However, as the authority was to represent South Western Railway in land matter this authority dismissed the objection raised and directed the respondents to proceed further with arguments. However, respondents refused to argue the matter stating that he is preferring a revision as against the Order passed on authorization letter and sought adjournment. On the next date of hearing i.e on 12/06/2024 representative of the applicant appeared with fresh authorization letter to represent the South Western Railway in all court matters and quasi-judicial authorities. Respondents again sought for adjournment placing on record copy of an application for transfer filed by them before Director of Settlement & Land Records Panaji. Request of Respondent was granted and matter was again adjourned to 24/06/2024.

On 24/06/2024, this authority received a copy of reply addressed to the respondents in response to their application for transfer, in which the respondents were informed that matters pertaining to Record of Rights/Promulgation are dealt by respective Inspector of Survey & Land Records and can't be transferred to other court. Accordingly, the Court directed the parties present to proceed with arguments. However, Advocate for respondents filed application withdrawing his appearance from the matter and seeking discharge from the matter which was allowed. The respondent present was directed to proceed with arguments which he showed inability and sought time.

However since matter has already been delayed and since the reply of respondents is on record, the same has been considered to be part and parcel of the arguments of the Respondents.

At the outset it has to be borne in mind that the Government can issue directions to carry out fresh survey of Lands inorder to set the Record of Rights in a correct position. It is in this context that the Government issued the Notification u/s 56 of Goa Land Revenue Code 1968. Now coming to the merits of the case vis a vis objection raised by the Respondents, there is no dispute in so far as the record of Rights are concerned, which have to be prepared in accordance with the provision of Goa Land Revenue Code of 1968. It is based on this very records that the Respondents chose to file a Title case before the Deputy Collector Quepem, wherein they had relied upon the cadastral survey plan bearing Survey No. 133 vis a vis new survey plan and Form No. I &XIV of the property bearing survey no. 106/1 of village Calem. At that relevant point of time, the respondents have affirmed to the survey plans and have admitted to the boundary of the land and there has been no dispute raised by them thereafter. The Law helps the vigilant and not the indolent. In the case at hand, respondents were very well aware of their rights, because of which a Title case u/s 14 of Goa Land Revenue Code 1968 came to be filed by them in the year 1990 and had they to have any rights in the land beyond the settled boundary then they would have also raised a banner of protest. As the said survey plans are prepared in accordance with Goa Land Revenue Code 1968, the respondents cannot take recourse to the cadastral plans prepared by Portuguese Government, as the survey plans are prepared by the State of Goa will have precedence over the plans that were prepared by the erstwhile Portuguese regime. The respondents have also categorically admitted that on the northern side of the boundary of their property is the property of the railway beyond which is the property of Cesar Furtado. One should not forget that initially the railways were operating on meter gauge track which was converted into broad gauge about 30 to 35 years back. At this juncture also the respondents have not raised their banner of protest against said conversion which gives a double edge to South Western Railways to establish that they had been in possession and occupation of the un-

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surveyed portion of land abutting property bearing survey no. 103/1 , 104/1 and 104/2 of Village Calem.

In view of the discussion above this Court pass the following order,

ORDER

Objections raised by the Respondents dated 29/04/2024 stands dismissed. The Record of Rights in respect of Survey no. 165/1 of Village Calem in Sanguem Taluka shall be confirmed.

The name of South Western Railway shall be recorded in the occupant column of the property bearing Survey No. 165/1 of Village Calem in Sanguem Taluka admeasuring 2,74,300 Sq.mtrs (Class b) under uncultivable area.

The records shall be sent to the Deputy Collector & S.D.O Sanguem, Goa for promulgation.

Pronounced in the Open Court.

Given under my hand and seal of this Court on 24th June day of 2024.

V Kambli

(Vinita V Kambli)
Inspector of Survey & Land Records,
Record Of Rights (South)
Salcete Goa

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V Kambli

Inspector of Survey and Land Records
Record of Rights
Margao-Goa

CERTIFIED COPY
Copy applied for on and by Shri. Rohan Khutkar
Copy ready on 18/02/2024
Copy delivered 501
Advance Fifty only vide
Rupees Total
Receipt Rupees
Fees amount vide
Receipt No. dated
Compared by Suresh P. Dessai
Checked by

GOA FOUNDATION

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E-mail: goafoundation@gmail.com *Website:* www.goafoundation.org

28.10.2024

To,
The Chief Wildlife Warden,
Goa Van Bhavan, Forest Department
Altinho, Panaji, Goa - 403001

Subject**:** Unlawful Land Acquisition Proceedings and Illegal Development and Proposed Tree Felling in lands included in Bhagwan Mahaveer (Mollem) Wildlife Sanctuary

Dear Sir,

I am writing to express deep concern over the ongoing mismanagement of land within the Bhagwan Mahaveer (Mollem) Wildlife Sanctuary, particularly in Kalay Village, Sanguem Taluka, that has recently come to our attention.

Land acquisition proceedings under the Railways Act, 1989 are being initiated and permitted on lands falling within the notified protected area in grave violation of provisions of the Wildlife Protection Act, 1972. As you are aware, Section 20 of the WLPA expressly prohibits the accrual of any rights *in, on, or over* land within a notified sanctuary, barring only 3 specific exceptions - succession, testamentary and intestate. The following paragraphs detail the extent of violations within the Sanctuary:

1. It appears that Sy No 103/2 of Kalay village has previously been unlawfully acquired by the South Western Railway (SWR) through proceedings initiated under the Railways Act vide a notification in 2020, and a final award has been passed by the Dy Collector on 29.11.2022 for the purposes of the Hospet-Hubli-Tinaighat-Vasco railway line doubling project. A copy of the notification and award of the Dy Collector is enclosed as **Annexure 1.**

2. Vide notification dated 02.05.2023 also issued under the Railways Act, 1989, the SWR has notified its intention to acquire additional land for the purpose of the Hospet-Hubli-Tinaighat-Vasco railway line doubling project, parts of which (all the areas

listed under Kalay village) fall within the notified Bhagwan Mahaveer Wildlife Sanctuary. A copy of the impugned notification dated 02.05.2023 is enclosed as **Annexure 2.**

3. Subsequently, in the unlawful acquisition proceedings being conducted under the Railways Act, objections were filed by residents of Kalay village to the inclusion of Sy Nos 104/1, 104/2 and 106/1 in the above notifications as they fall within the WLS and hence within the protection of Section 20 of the WLPA. The Dy Collector has rejected these objections on wholly erroneous and illegitimate grounds. A copy of the Dy Collector's order dated 16.02.2024 is enclosed as **Annexure 3.**

4. Further, on 24.06.2024, the Inspector of Survey and Land Records (ISLR) has passed orders to change revenue records to reflect the name of SWR over new Sy No 165/1 of Kalay village, falling within the limits of the sanctuary. The land is not owned by the SWR and belongs to the WLS. A copy of the order of the ISLR is enclosed as **Annexure 4.** Recently, we have found that the railway authorities have marked trees for felling in this sy.No. This is quite unprecedented. Photos of the trees marked for felling are annexed at **Annexure 5**.

You are also aware that Hon'ble SC has cancelled the NOC issued by the Standing Committee of the National Board of Wildlife for the South Western Railway to construct a second railway line within this wildlife habitat due to the effects of enhanced railway activity on the condition of the wildlife and the wildlife habitat, in terms of its order dt. 09.05.2022 in *I.A. No. 61370 of 2021*. These acquisitions are in the face of the SC order and invite contempt proceedings.

In an earlier matter dealing with the permissions granted by some authorities for unloading/loading of mineral ore from Karnataka within sanctuary limits, the Railways have filed an affidavit claiming the Kalay railway station has been erected in 1997. The WLS was notified in 1982. The construction of the railway station is therefore completely illegal as it is in violation of law.

Furthermore, the settlement of rights within this sanctuary has not been completed for more than 4 decades, despite multiple orders from the Hon'ble Supreme Court and directions from the Hon'ble High Court, requiring the government to expedite the process. The delay in settling rights within the sanctuary creates a legal limbo, enabling illegal land acquisitions to proceed unchecked. These proceedings are ongoing despite the fact that land within the sanctuary cannot be lawfully acquired or utilized for purposes unrelated to wildlife conservation.

I do not know whether your office is aware of these violations, since all cases there is no approval granted by your office for these developments.

These developments however reveal alarming levels of mismanagement in failing to take any action, or being blissfully ignorant and unaware of them, while sanctuary land is whittled away piece by piece.

We therefore request you to treat this matter with the urgency it deserves and that your office will take immediate and firm action to address these issues. Criminal sanctions are provided for in the Wildlife Act, 1972, and we would like the process for these to be initiated against the concerned railway authorities without any delay.

In the meanwhile, you are requested to issue an immediate order restraining the felling of any trees within the ambit of the WLS, especially of those trees marked for felling in newly created Sy.No.165/1 of Kalay village.

Yours faithfully,

Dr Claude Alvares
Director

Encl: as above (5 annexures)

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30.10.2024

The Secretary,
Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhavan,
Jor Bagh Road,
New Delhi – 110003

Subject**:** Unlawful Land Acquisition Proceedings and Illegal Development and Proposed Tree Felling in lands included in Bhagwan Mahaveer (Mollem) Wildlife Sanctuary

Dear Sir/Madam,

I am writing to express deep concern over the mismanagement of land within the Bhagwan Mahaveer Wildlife Sanctuary, particularly in Kalay Village, Sanguem Taluka, that has recently been brought to our attention. These developments are taking place without the knowledge of the State Board of Wildlife or the National Board for Wildlife.

Land acquisition proceedings under the Railway Act, 1989 are being initiated and permitted on lands falling within the notified protected area in violation of provisions of the Wildlife Protection Act, 1972. As you are aware, Section 20 of the WLPA expressly prohibits the accrual of any rights *in, on, or over* land within a notified sanctuary, barring only 3 specific exceptions -- succession, testamentary and intestate. The following paragraphs detail the extent of violations within the Sanctuary:

1. It appears that Sy No 103/2 of Kalay village has previously been unlawfully acquired by the South Western Railway (SWR) through proceedings initiated under the Railways Act vide a notification in 2020, and a final award has been passed by the Dy Collector on 29.11.2022 for the purposes of the Hospet-Hubli-Tinaighat-Vasco railway line doubling project. A copy of the notification and award of the Dy Collector is enclosed as **Anneuxre 1.**

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3. Subsequently, in these unlawful acquisition proceedings being conducted under the Railways Act, objections were filed by residents of Kalay village to the inclusion of Sy Nos 104/1, 104/2 and 106/1 within the above notifications as they fall within the WLS and hence within the protection of Section 20 of the WLPA. The Dy Collector has rejected these objections on wholly erroneous and illegitimate grounds, A copy of the Dy Collector's order dated 16.02.2024 is enclosed as **Annexure 3.**

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You are also aware that Hon'ble SC has cancelled the NOC issued by the Standing Committee of the National Board of Wildlife for the South Western Railway to construct a second railway line within this wildlife habitat due to the effects of enhanced railway activity on the condition of the wildlife and the wildlife habitat, in terms of its order dt. 09.05.2022 in *I.A. No. 61370 of 2021*. These acquisitions are in the face of the SC order and would invite contempt proceedings.

In an earlier matter dealing with the permissions granted by some authorities for unloading/loading of mineral ore from Karnataka within sanctuary limits, the Railways have filed an affidavit claiming the Kalay railway station has been erected in 1997. The WLS was notified in 1982. The construction of the railway station is therefore completely illegal as it is in violation of law.

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I do not know whether the Ministry is aware of these violations, since all cases there are no approvals granted by the Ministry for these developments.

We urgently request that your Ministry treat this matter with the gravity it demands. Immediate intervention is required to halt further violations of the WLPA and to ensure that the sanctity of the Bhagwan Mahaveer Wildlife Sanctuary is preserved.

We trust that the Ministry will take swift and decisive action to rectify this situation.

Yours faithfully,

Dr Claude Alvares
Director

Encl: as above (5 Annexures)